

No. 12308

United States
Court of Appeals
for the Ninth Circuit.

EDDY D. FIELD and HELEN FIELD,
Petitioners,
vs.

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

Transcript of Record

Upon Petition to Review a Decision of the Tax Court
of the United States

FILED

NOV 5 1948

PAUL P. O'BRIEN, 
CLERK

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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italic; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italic the two words between which the omission seems to occur.]

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The Tax Court of the United States
Docket No. 13721

EDDY D. FIELD,

Petitioner,

vs.

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

Appearances:

For Petitioner:

GEORGE BOUCHARD.

For Respondent:

A. J. HURLEY,
R. C. WHITLEY.

DOCKET ENTRIES

1947

Apr. 29—Petition received and filed. Taxpayer notified. Fee paid.

Apr. 30—Copy of petition served on General Counsel.

June 3—Answer filed by General Counsel.

June 3—Request for hearing at Los Angeles, Calif., filed by General Counsel.

June 6—Notice issued placing proceeding on Los Angeles calendar. Service of answer and request made.

1948

Feb. 13—Hearing set 4/26/48, Los Angeles, Calif.

Apr. 26—Hearing had before Judge Arnold on petitioner's motion for continuance to next Los Angeles calendar granted.

Apr. 26—Order that this proceeding is continued to the next Los Angeles calendar entered.

July 28—Hearing set Oct. 11, 1948, Los Angeles, California.

Oct. 19—Hearing had before Judge Arundell on merits. Oral motion for parties, proceedings consolidated for hearing in dkts. 13721-13722. Briefs due 12/3/48; replies Dec. 23, 1948.

Nov. 4—Transcript of hearing 10/19/48 filed.

Nov. 24—Motion to reopen proceedings to admit in evidence petitioner's 1944 income tax return filed by General Counsel.

Nov. 24—Objection to motion to open record filed by taxpayer.

Nov. 24—Respondent's motion denied.

Nov. 26—Motion for extension to Dec. 31, 1948, to file brief filed by taxpayer. 11/26/48. Granted.

Nov. 29—Motion for extension to Jan. 3, 1949, to file briefs filed by General Counsel. 12/1/48. Granted.

Dec. 20—Motion for extension to Jan. 20, 1949, to file brief filed by taxpayer. 12/21/48. Granted.

1949

Jan. 3—Brief filed by General Counsel.

Jan. 17—Brief filed by taxpayer. 1/18/49 Copy served.

Feb. 11—Reply brief filed by taxpayer. 2/14/49 Copy served.

Feb. 23—Memorandum findings of fact and opinion rendered, Judge Arundell. Decision will be entered under Rule 50. Copy served.

Apr. 5—Respondent's computation filed.

Apr. 8—Hearing set May 4, 1949, on respondent's computation.

May 4—Hearing had before Judge Turner on settlement. Referred to Judge Arundell.

May 4—Decision entered, Judge Arundell, Div. 7.

July 1—Petition for review by U. S. Court of Appeals, Ninth Circuit filed by taxpayer.

July 1—Designation of contents of record filed by taxpayer.

July 1—Affidavit of service by mail of petition for review and designation of contents of record on General Counsel filed by taxpayer.

The Tax Court of the United States
Docket No. 13722

HELEN FIELD,

Petitioner,

vs.

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

Appearances:

For Petitioner:

GEORGE BOUCHARD.

For Respondent:

A. J. HURLEY,
R. C. WHITLEY.

DOCKET ENTRIES

1947

Apr. 29—Petition received and filed. Taxpayer notified. Fee paid.

Apr. 30—Copy of petition served on General Counsel.

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June 3—Request for hearing at Los Angeles, Calif., filed by General Counsel.

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Apr. 26—Hearing had before Judge Arnold on petitioner's motion for continuance to next Los Angeles calendar granted.

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July 28—Hearing set Oct. 11, 1948, Los Angeles, California.

Oct. 19—Hearing had before Judge Arundell on merits. Oral motion for parties, proceedings consolidated for hearing in dkts. 13721-13722. Briefs due 12/3/48; replies Dec. 23, 1948.

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Nov. 24—Motion to reopen proceedings to admit in evidence petitioner's 1944 income tax return filed by General Counsel.

Nov. 24—Objection to motion to open record filed by taxpayer.

Nov. 24—Respondent's motion denied.

Nov. 26—Motion for extension to Dec. 31, 1948, to file brief filed by taxpayer. 11/26/48 Granted.

Nov. 29—Motion for extension to Jan. 3, 1949, to file briefs filed by General Counsel. 12/1/48 Granted.

1948

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Feb. 11—Reply brief filed by taxpayer. 2/14/49 Copy served.

Feb. 23—Memorandum findings of fact and opinion rendered, Judge Arundell. Decision will be entered under Rule 50. Copy served.

Apr. 5—Respondent's computation filed.

Apr. 8—Hearing set May 4, 1949, on respondent's computation.

May 4—Hearing had before Judge Turner on settlement. Referred to Judge Arundell.

May 4—Decision entered, Judge Arundell, Div. 7.

July 1—Petition for review by U. S. Court of Appeals, Ninth Circuit, filed by taxpayer.

July 1—Designation of contents of record filed by taxpayer.

July 1—Affidavit of service by mail of petition for review and designation of contents of record on General Counsel filed by taxpayer.

The Tax Court of the United States
Docket No. 13721

EDDY D. FIELD,

Petitioner,

vs.

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

PETITION

The above-named petitioner hereby petitions for a redetermination of the deficiencies set forth by the Commissioner of Internal Revenue in his notice of deficiency dated February 25, 1947 (LA:IT:90D:LES) and, as a basis of his proceeding, alleges as follows:

First: Petitioner is a resident of Los Angeles, Los Angeles County, California.

Second: The notice of deficiency (copy of which is attached hereto and made a part hereof as Exhibit "A") was mailed to petitioner on or about February 25, 1947.

Third: The taxes in controversy are Income and Victory taxes for the taxable year ending December 31, 1943, in the amount of \$7,913.65.

Fourth: The determination of tax set forth in said notice of deficiency is based upon the following errors:

(a) The Commissioner erred in determining that said properties sold by petitioner in 1942 and 1943 were not capital assets within the meaning of Section 117 (a) (1) of the Internal Revenue Code,

and in determining that the gains from the sale or exchange of these properties are fully taxable as business income.

Fifth: The facts upon which petitioner relies, as a basis for this proceeding, are as follows:

(a) Petitioner has for several years last past been a licensed Real Estate Broker under the laws of the State of California; his principal income during said years being commissions realized from the sale of property belonging to others, commissions received for property management and commissions earned in the sale of insurance. The properties in question were owned by petitioner and his wife, Helen Field, as community property and the taxable profit upon their sale was reported one-half by petitioner, and one-half by petitioner's wife. The properties in question were purchased by petitioner and his wife as investment properties. They were not properties held by petitioner primarily for sale to customers in the ordinary course of his trade or business, or properties of a kind excepted from the definition of "Capital Assets" contained in Section 117 (a) (1) of the Internal Revenue Code. They were investment properties held by the petitioner, and the profit upon their sale or exchange was properly reported by him as capital gains.

(b) In so far as the Commissioner, in determining petitioner's 1943 tax liability, increased the same by virtue of increasing the tax liability shown due on petitioner's 1942 income tax return, the same is erroneous because a redetermination thereof on

said 1942 liability is barred by Section 275 (a) of the Internal Revenue Code.

Wherefore, petitioner prays that this Court may hear and determine:

(a) That the real property sold by petitioner in each of the years 1942 and 1943 were Capital Assets and subject to tax as such.

(b) That the statute of limitations has barred respondent's right to increase the tax liability as shown by his return filed for the year 1942.

/s/ EDDY D. FIELD,
Petitioner.

/s/ GEORGE BOUCHARD,
Counsel for Petitioner.

State of California,
County of Los Angeles—ss.

Eddy D. Field, being first duly sworn, on oath says:

That he is the petitioner herein; that he has read the foregoing Petition and is familiar with the statements contained therein and the facts stated therein are true, except as to those facts stated on information and belief, and those facts he believes to be true.

/s/ EDDY D. FIELD.

Subscribed and sworn to before me this 25th day of April, 1947.

[Seal] /s/ MARY E. McKNIGHT,
Notary Public in and for Said
County and State.

My Commission Expires 8/5/48.

EXHIBIT "A"

Treasury Department
Internal Revenue Service
417 South Hill Street
Los Angeles 13, California

Office of Internal Revenue Agent in Charge
Los Angeles Division, LA:IT:90D:LES

Feb. 25, 1947.

Mr. Eddy D. Field
940 South La Brea Avenue
Los Angeles 35, California

Dear Mr. Field:

You are advised that the determination of your income and victory tax liability for the taxable year ended December 31, 1943, discloses a deficiency of \$7,913.65, as shown in the statement attached.

In accordance with the provisions of existing internal revenue laws, notice is hereby given of the deficiency or deficiencies mentioned.

Within 90 days (not counting Saturday, Sunday or a legal holiday in the District of Columbia as the 90th day) from the date of the mailing of this letter, you may file a petition with The Tax Court of the United States, at its principal address, Washington D. C., for a redetermination of the deficiency or deficiencies.

Should you not desire to file a petition, you are requested to execute the enclosed form and forward it to the Internal Revenue Agent in Charge, Los Angeles, California, for the attention of LA:Conf.

The signing and filing of this form will expedite the closing of your return(s) by permitting an early assessment of the deficiency or deficiencies, and will prevent the accumulation of interest, since the interest period terminates 30 days after filing the form, or on the date assessment is made, whichever is earlier.

Very truly yours,
JOSEPH D. NUNAN, JR.,
Commissioner.

By /s/ GEORGE D. MARTIN,
Internal Revenue Agent in
Charge.

Enclosures:

Statement
Form of waiver

Statement

LA:IT:90D:LES

Mr. Eddy D. Field
940 South La Brea Avenue
Los Angeles 35, California

Tax Liability for the Taxable Year
Ended December 31, 1943

Income and victory tax

Deficiency, \$7,913.65

In making this determination of your income and victory tax liability careful consideration has been given to the report of examination dated January 27, 1947.

The properties sold in 1942 and 1943 from which you reported net capital gains in the amounts of \$3,607.19 and \$29,239.73 respectively are not capital assets within the meaning of section 117 (a) (1) of the Internal Revenue Code, and the gains from the sale or exchange of the properties reported in 1942 and 1943 are fully taxable as business income. The net capital gains reported have been adjusted to reflect their proper status as business income.

ADJUSTMENTS TO NET INCOME

Taxable Year Ended December 31, 1942

Net income as disclosed by return (before community property division of income).....	\$22,930.88
Unallowable deductions and additional income:	
(a) Rent	\$ 30.00
(b) Income from business.....	5,804.18
(c) Auto expense	295.70
(d) Travel and entertainment expense....	13.14
	6,143.02
Total	\$29,073.90
Nontaxable income and additional deductions:	
(e) Net gain from sale or exchange of capital assets	\$3,607.19
(f) Gardening supplies .....	.40
	3,607.59
Net income adjusted (before community property division)	\$25,466.31
Your community share (1/2 of \$25,466.31).....	\$12,733.16

EXPLANATION OF ADJUSTMENTS

- (a) You deducted as a charge to outside rental commissions, the amount of \$30.00, which is disallowed due to lack of substantiation.
- (b) The amount of gain from the sale of property, \$5,804.18, is taxable in full as business income, as previously explained.
- (c) and (d) Auto expense, (\$295.70), and travel and entertainment expense, (\$13.14), deducted in excess of the amounts shown by your books of account and not substantiated are disallowed.
- (e) The net capital gain reported in the amount of \$3,607.19 is eliminated, as such, from income and included as business income under item (b) above.

(f) Gardening supplies as shown by your books of account amounted to \$7.83, whereas you claimed as a deduction on your return \$7.43. The difference of .40 cents is allowed as a deduction.

COMPUTATION OF TAX

Taxable Year Ended December 31, 1942

Net income adjusted.....		\$12,733.16
Less: Personal exemption	\$ 250.00	
Credit for dependents.....	700.00	950.00
Balance (surtax net income).....		\$11,783.16
Less: Earned income credit (10% of \$12,733.16).....		1,273.32
Net income subject to normal tax.....		\$10,509.84
Normal tax at 6% on \$10,509.84.....	\$ 630.59	
Surtax on 11,783.16.....	2,590.61	
Total normal tax and surtax.....		\$ 3,221.20
Total income tax.....		\$ 3,221.20
Correct income tax liability.....		\$ 3,221.20

ADJUSTMENT TO NET INCOME

Taxable Year Ended December 31, 1943

	Income Tax Net Income	Victory Tax Net Income
Net income as disclosed by return (before community property division of income)	\$ 59,651.56	\$31,774.76
Unallowable deductions and additional income:		
(a) Income from business.....	50,894.64	50,894.64
(b) Short-term capital loss.....	576.11	
Total	\$111,122.31	\$82,669.40
Nontaxable income and additional deduction:		
(c) Net capital gains.....	29,815.84	
Net income adjusted (before community property division)	\$ 81,306.47	\$82,669.40
Your community share of net income adjusted	\$ 40,653.24	\$41,334.70

EXPLANATION OF ADJUSTMENTS

- (a) Total gain from sale of properties, reported as capital gain, in the amount of \$50,894.64 is taxable in full as business income.
- (b) The short-term capital loss of \$576.11 claimed from the sale or exchange of 260 shares of Roland Apartment Corporation stock is disallowed for lack of substantiation.

(c) The net capital gain reported in the amount of \$29,239.73 has been increased by the short-term capital loss disallowed in item (b) above, and the corrected amount of \$29,815.84 is eliminated from income as capital gain and included as business income under item (a) above, for the reason previously explained.

COMPUTATION OF INCOME AND VICTORY TAX
CURRENT TAX PAYMENT ACT OF 1943

Taxable Year Ended December 31, 1943

Income tax net income adjusted.....	\$40,653.24
Less: Personal exemption	\$ 250.00
Credit for dependents.....	700.00
	950.00
 Surtax net income.....	\$39,703.24
Less: Earned income credit.....	\$ 1,400.00
 Income subject to normal tax.....	\$38,303.24
Normal tax at 6 per cent on \$38,303.24.....	\$ 2,298.18
Surtax on	\$39,703.24.....
	16,838.98
 Total income tax.....	\$19,137.17
Net income tax.....	\$19,137.17
Victory tax net income adjusted.....	\$41,334.70
Less: Specific exemption.....	624.00
 Income subject to victory tax.....	\$40,710.70
Victory tax before credit (5% of \$40,710.70)	\$ 2,035.54
Less: Victory tax credit (44%) limited to	700.00
 Net victory tax.....	1,335.54
 1—Net income tax and victory tax.....	\$20,472.71
2—Income tax for 1942.....	\$ 3,221.20
3—Amount of item 1 or 2, whichever is larger.....	\$20,472.71
4—Forgiveness feature:	
(a) Amount of item 1 or 2, which- ever is smaller	\$ 3,221.20
(b) Amount forgiven (3/4 of (a))....	2,415.90
 (c) Amount unforgiven	805.30
 5—Correct income and victory tax lia- bility (item 3 plus item 4(c)).....	\$21,278.01
6—Income and victory tax liability shown on return account No. NA-776329.....	13,364.36
 7—Deficiency of income and victory tax.....	\$ 7,913.65
[Endorsed] : Filed T. C. U. S. April 29, 1947.	

The Tax Court of the United States
Docket No. 13721

EDDY D. FIELD,

Petitioner,

vs.

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

ANSWER

The Commissioner of Internal Revenue, by his attorney, J. P. Wenchel, Chief Counsel, Bureau of Internal Revenue, for answer to the petition filed herein, admits and denies as follows:

First & Second: Admits the allegations contained in paragraphs First and Second of the petition.

Third: Admits that the taxes in controversy are Income and Victory taxes for the taxable year ending December 31, 1943; denies the remainder of the allegations contained in paragraph Third of the petition.

Fourth (a): Denies the allegations contained in subparagraph (a) of paragraph Fourth of the petition.

Fifth (a): Admits that the properties in question were owned by the petitioner and his wife, Helen Field, as community property; denies the remainder of the allegations contained in subparagraph (a) of paragraph Fifth of the petition.

(b) Denies the allegations contained in subparagraph (b) of paragraph Fifth of the petition.

Sixth: Denies each and every allegation contained in the petition not hereinbefore specifically admitted or denied.

Wherefore, it is prayed that the determination of the Commissioner be approved.

/s/ J. P. WENCHEL,
Chief Counsel, Bureau of
Internal Revenue.

Of Counsel:

B. H. NEBLETT,
Division Counsel.

EARL C. CROUTER,

A. J. HURLEY,
Special Attorneys,
Bureau of Internal Revenue.

[Endorsed]: Filed T.C.U.S. June 3, 1947.

The Tax Court of the United States
Docket No. 13722

HELEN FIELD,

Petitioner,

vs.

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

PETITION

The above named petitioner hereby petitions for a redetermination of the deficiencies set forth by the Commissioner of Internal Revenue in his notice

of deficiency dated February 25, 1947 (LA:IT:90D:LES) and, as a basis of her proceeding, alleges as follows:

First: Petitioner is a resident of Los Angeles, Los Angeles County, California.

Second: The notice of deficiency (copy of which is attached hereto and made a part hereof as Exhibit "A") was mailed to petitioner on or about February 25, 1947.

Third: The taxes in controversy are Income and Victory taxes for the taxable year ending December 31, 1943, in the amount of \$8,083.13.

Fourth: The determination of tax set forth in said notice of deficiency is based upon the following errors:

(a) The Commissioner erred in determining that said properties sold by petitioner's husband, Eddy D. Field, in 1942 and 1943 were not capital assets within the meaning of Section 117 (a) (1) of the Internal Revenue Code, and in determining that the gains from the sale or exchange of these properties are fully taxable as business income.

Fifth: The facts upon which petitioner relies, as a basis for this proceeding, are as follows:

(a) Petitioner's husband, Eddy D. Field, has for several years last past been a licensed Real Estate Broker under the laws of the State of California; that his principal income during said years was from commissions realized from the sale of property belonging to others, commissions received for property management and commissions earned in the sale of insurance. The properties in ques-

tion were owned by petitioner and her husband, Eddy D. Field, as community property and the taxable profit upon their sale was reported one-half by petitioner, and one-half by petitioner's husband. The properties in question were purchased by petitioner and her husband as investment properties. They were not properties held primarily for sale to customers in the ordinary course of her husband's trade or business, or properties of a kind excepted from the definition of "Capital Assets" contained in Section 117 (a) (1) of the Internal Revenue Code. They were investment properties held by petitioner's husband, and the profit upon their sale or exchange was properly reported by him as capital gains.

(b) In so far as the Commissioner, in determining petitioner's 1943 tax liability, increased the same by virtue of increasing the tax liability shown due on petitioner's 1942 income tax return, the same is erroneous because a redetermination thereof on said 1942 liability is barred by Section 275 (a) of the Internal Revenue Code.

Wherefore, petitioner prays that this Court may hear and determine:

(a) That the real property sold by petitioner's husband, Eddy D. Field, in the years of 1942 and 1943 were Capital Assets and subject to tax as such.

(b) That the statute of limitations has barred

respondent's right to increase the tax liability as shown by her return filed for the year 1942.

/s/ HELEN FIELD,

Petitioner.

/s/ GEORGE BOUCHARD,

Counsel for Petitioner.

State of California,

County of Los Angeles—ss.

Helen Field, being first duly sworn, on oath says:

That she is the petitioner herein; that she has read the foregoing Petition and is familiar with the statements contained therein and the facts stated therein are true, except as to those facts stated on information and belief, and those facts she believes to be true.

/s/ HELEN FIELD.

Subscribed and sworn to before me this 25th day of April, 1947.

[Seal] /s/ MARY E. McKNIGHT,

Notary Public in and for Said
County and State.

My Commission Expires 8/5/48.

EXHIBIT "A"

Treasury Department
Internal Revenue Service
417 South Hill Street,
Los Angeles 13, California

Office of Internal Revenue Agent in Charge
Los Angeles Division
LA:IT:90D:LES

Feb. 25, 1947.

Mrs. Helen Field
940 South La Brea Avenue
Los Angeles 35, California

Dear Mrs. Field:

You are advised that the determination of your income and victory tax liability for the taxable year ended December 31, 1943, discloses a deficiency of \$8,083.13, as shown in the statement attached.

In accordance with the provisions of existing internal revenue laws, notice is hereby given of the deficiency or deficiencies mentioned.

Within 90 days (not counting Saturday or Sunday or a legal holiday in the District of Columbia as the 90th day) from the date of the mailing of this letter, you may file a petition with The Tax Court of the United States, at its principal address, Washington, D. C., for a redetermination of the deficiency or deficiencies.

Should you not desire to file a petition, you are requested to execute the enclosed form and forward it to the Internal Revenue Agent in Charge,

Los Angeles, California, for the attention of LA:
Conf.

The signing and filing of this form will expedite the closing of your return(s) by permitting an early assessment of the deficiency or deficiencies, and will prevent the accumulation of interest, since the interest period terminates 30 days after filing the form, or on the date assessment is made, whichever is earlier.

Very truly yours,
JOSEPH D. NUNAN, JR.,
Commissioner.

By /s/ GEORGE D. MARTIN,
Internal Revenue Agent in
Charge.

Enclosures:

Statement
Form of waiver

LA:IT:90D:LES

Mrs. Helen Field
940 South LaBrea Avenue
Los Angeles 35, California
Tax Liability for the Taxable Year
Ended December 31, 1943

Income and victory tax

Deficiency
\$8,083.13

In making this determination of your income and victory tax liability careful consideration has been

given to the report of examination dated January 27, 1947.

The properties sold in 1942 and 1943 from which you reported net capital gains in the amounts of \$3,607.19 and \$29,239.73 respectively, are not capital assets within the meaning of section 117(a)(1) of the Internal Revenue Code, and the gains from the sale or exchange of the properties reported in 1942 and 1943 are fully taxable as business income. The net capital gains reported have been adjusted to reflect their proper status as business income.

ADJUSTMENTS TO NET INCOME

Taxable Year Ended December 31, 1942

Net income as disclosed by return (before community property division of income).....	\$22,930.88
Unallowable deductions and additional income:	
(a) Rent	\$ 30.00
(b) Income from business.....	5,804.18
(c) Auto expense	295.70
(d) Travel and entertainment expense	13.14
	<hr/>
Total	29,073.90
Nontaxable income and additional deductions:	
(e) Net gain from sale or exchange of capital assets	\$ 3,607.19
(f) Gardening supplies .....	.40
	<hr/>
Net income adjusted (before community property division)	\$25,466.31
Your share community (1/2 of \$25,466.31).....	\$12,733.15

EXPLANATION OF ADJUSTMENTS

- (a) You deducted as a charge to outside rental commissions, the amount of \$30.00, which is disallowed due to lack of substantiation.
- (b) The amount of gain from the sale of property, \$5,804.18, is taxable in full as business income, as previously explained.
- (c) and (d) Auto expense, (\$295.70), and travel and entertainment expense, (\$13.14), deducted in excess of the amounts shown by your books of account and not substantiated are disallowed.

(e) The net capital gain reported in the amount of \$3,607.19 is eliminated, as such, from income and included as business income under item (b) above.

(f) Gardening supplies as shown by your books of account amounted to \$7.83, whereas you claimed as a deduction on your return \$7.43. The difference of .40 cents is allowed as a deduction.

COMPUTATION OF TAX

Taxable Year Ended December 31, 1942

Net income adjusted.....	\$12,733.15
Less: Personal exemption	950.00
Balance (surtax net income).....	\$11,783.15
Less: Earned income credit (10% of \$12,733.15).....	1,273.31
Net income subject to normal tax.....	\$10,509.84
Normal tax at 6% on \$10,509.84.....	\$ 630.59
Surtax on \$11,783.16.....	2,590.61
Total normal tax and surtax.....	\$ 3,221.20
Total income tax.....	\$ 3,221.20
Correct income tax liability.....	\$ 3,221.20

ADJUSTMENTS TO NET INCOME

Taxable Year Ended December 31, 1943

	Income Tax Net Income	Victory Tax Net Income
Net income as disclosed by return (before community property division of in- come)	\$ 59,651.56	\$31,774.76
Unallowable deductions and additional income:		
(a) Income from business.....	50,894.64	50,894.46
(b) Short-term capital loss.....	576.11	.....
Total	\$111,122.31	\$82,669.40
Nontaxable income and additional deduc- tions:		
(c) Net capital gains.....	29,815.84	.....
Net income adjusted (before community property division)	\$ 81,306.47	\$82,669.40
Your community share of net income ad- justed	\$ 40,653.23	\$41,334.70

EXPLANATION OF ADJUSTMENTS

(a) Total gain from sale of properties, reported as capital gain, in the amount of \$50,894.64 is taxable in full as business income.

(b) The short-term capital loss of \$576.11 claimed from the sale or exchange of 260 shares of Roland Apartment Corporation stock is disallowed for lack of substantiation.

(c) The net capital gain reported in the amount of \$29,239.73 has been increased by the short-term capital loss disallowed in item (b) above, and the corrected amount of \$29,815.84 is eliminated from income as capital gain and included as business income under item (a) above, for the reason previously explained.

COMPUTATION OF INCOME AND VICTORY TAX—
CURRENT TAX PAYMENT ACT OF 1943

Taxable Year Ended December 31, 1943

Income tax net income adjusted.....	\$40,653.23
Less: Personal exemption.....	950.00
Surtax net income.....	\$39,703.23
Less: Earned income credit.....	1,400.00
Income subject to normal tax.....	\$38,303.23
Normal tax at 6 per cent on \$38,303.23....	\$ 2,298.19
Surtax on \$39,703.23....	16,838.98
Total income tax.....	\$19,137.17
Net income tax.....	\$19,137.17
Victory tax net income adjusted.....	\$41,334.70
Less: Specific exemption	624.00
Income subject to victory tax.....	\$40,710.70
Victory tax before credit (5% of \$40,710.70)	\$ 2,035.54
Less: Victory tax credit (40%) limited to	500.00
Net victory tax.....	\$ 1,535.54
1—Net income tax and victory tax.....	\$20,672.71
2—Income tax for 1942.....	\$ 3,221.20
3—Amount of item 1 or 2, whichever is larger.....	\$20,672.71
4—Forgiveness feature:	
(a) Amount of item 1 or 2, which- ever is smaller.....	\$ 3,221.20
(b) Amount forgiven (3/4 of (a)....	2,415.90
(c) Amount unforgiven	805.30

5—Correct income and victory tax liability (item 3 plus item 4(c)).....	\$21,478.01
6—Income and victory tax liability shown on return account No. NA-776328.....	13,394.88
7—Deficiency of income and victory tax.....	\$ 8,083.13
[Endorsed] : Filed T. C. U. S. April 29, 1947.	

The Tax Court of the United States
Docket No. 13722

HELEN FIELD,

Petitioner,

vs.

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

ANSWER

The Commissioner of Internal Revenue, by his attorney, J. P. Wenchel, Chief Counsel, Bureau of Internal Revenue, for answer to the petition filed herein, admits and denies as follows:

First & Second: Admits the allegations contained in paragraphs First and Second of the petition.

Third: Admits that the taxes in controversy are Income and Victory taxes for the taxable year ending December 31, 1943; denies the remainder of the allegations contained in paragraph Third of the petition.

Fourth (a): Denies the allegations contained in subparagraph (a) of paragraph Fourth of the petition.

Fifth (a): Admits that the properties in question were owned by the petitioner and her husband,

Eddy D. Field, as community property; denies the remainder of the allegations contained in subparagraph (a) of paragraph Fifth of the petition.

(b) Denies the allegations contained in subparagraph (b) of paragraph Fifth of the petition.

Sixth: Denies each and every allegation contained in the petition not hereinbefore specifically admitted or denied.

Wherefore, it is prayed that the determination of the Commissioner be approved.

/s/ J. P. WENCHEL—ECC,
Chief Counsel, Bureau of
Internal Revenue.

Of Counsel:

B. H. NEBLETT,
Division Counsel.

EARL C. CROUTER,
A. J. HURLEY,
Special Attorneys,
Bureau of Internal Revenue.

[Endorsed]: Filed T.C.U.S. June 3, 1947.
The Tax Court of the United States
Docket Nos. 13721, 13722

EDDY D. FIELD,
Petitioner,
vs.

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

HELEN FIELD,

Petitioner,

vs.

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

Petitioners, husband and wife, in the taxable years 1942 and 1943 realized income from the sale of various parcels of real estate owned by them as community property. During these same years they also derived community income from a real estate and insurance brokerage business conducted by the husband and from the rental of other property. Held, that the real properties sold by petitioners in the taxable years were not capital assets within the meaning of section 117(a)(1) of the Internal Revenue Code, and that the profit derived constituted ordinary income and not capital gain.

GEORGE BOUCHARD, ESQ.,
For the petitioners.

A. J. BURLEY, ESQ.,
For the respondent.

MEMORANDUM FINDINGS OF FACT
AND OPINION

These proceedings, consolidated for trial and decision, involve the following deficiencies in income and victory taxes for the calendar year 1943:

	Docket No.	Amount
Eddy D. Field.....	13721	\$7,913.65
Helen Field	13722	8,083.13

In each case the petitioner's tax liability for the taxable year 1942 is involved by reason of the forgiveness features of the Current Tax Payment Act of 1943.

The sole issue herein is whether income derived by petitioners in 1942 and 1943 from the sale of certain real properties constitutes ordinary income or was taxable as capital gain under the provisions of section 117(a)(1) of the Internal Revenue Code.

Petitioners appear to have abandoned the question raised with respect to whether the Commissioner is barred under section 275(a) from re-determining petitioners' income tax liability for 1942 in connection with computing their tax liability for 1943 under the provisions of the Current Tax Payment Act of 1943. In any event, it is clear that such a contention cannot be maintained. Lawrence W. Carpenter, 10 T.C. 64, Fred B. Snite, 10 T.C. 523.

FINDINGS OF FACT

The petitioners Eddy D. Field and Helen Field are husband and wife, residing at Los Angeles, California. For each of the taxable years involved they filed separate individual income tax returns with the collector of internal revenue for the sixth district of California. The tax liability of Helen Field is involved herein as the real property in question was held by her and her husband as community property under California law.

Eddy D. Field obtained a real estate brokerage license in 1927 and since that time has been engaged in business as a real estate and insurance broker in

Los Angeles, California. During the taxable year 1943, he maintained three offices in that city and employed a number of real estate salesmen. His organization between January 1, 1942, and December 31, 1943, handled the sale of over 300 properties for which he received total commissions of \$52,-039.07 in 1942 and \$72,177.83 in 1943.

In 1934, Eddy D. and Helen Field organized a corporation known as Oxford Associates, paying in the amount of \$2,000, and taking in exchange therefor all of the stock which they thereafter held equally. This corporation was organized to take title to various pieces of real estate which petitioners might acquire from time to time.

Between 1934 and 1941, Oxford Associates acquired various real estate properties in Los Angeles. Some of these properties it sold during this period but most were held as income producing units.

On December 31, 1941, Oxford Associates was dissolved and the following 19 properties were distributed to Eddy D. and Helen Field as its sole stockholders:

2646 Vineyard—Baker Apartments (45 units);
300 S. Clark—1639 Gower (parking lot);
341 N. Croft—Lot 8, Block 39, Tract 9300;
1144 Hi-Point—Lot 22, Block 20, Tract 6450;
338 N. LaBrea—Lot 144, Tract 5070;
1248 S. LaJolla—Lot 145, Tract 5070;
1108 S. Longwood—Lot 146, Tract 5070;
1315 S. Roxbury (or Rockdale)—Lot 147, Tract 5070;

2646 Van Ness—Lot No. 1, Block 5, Tract 7803;
6016 Whitworth—

Of these properties, 11 were improved income producing properties and 8 were unimproved lots. Of the 11 improved properties acquired as a result of the liquidation, petitioners sold the following described parcels in the year 1942:

	Date Acquired	Date Sold	Sale Price	Cost Price
1108 S. Longwood.....	1/1/42	3/ 4/42	\$ 9,650	\$ 8,304.68
1315 S. Roxbury.....	1/1/42	7/23/42	11,950	9,824.04

On January 26, 1942, Helen Field sold a residence at 1500 South Hauser for \$9,100. She acquired a half interest in the property in 1936 and purchased the remaining one-half interest in 1939. There was realized on the disposition of this property a gain of \$1,697.96.

The property at 1315 South Roxbury was a four-unit apartment acquired by Oxford Associates in 1938. It was sold in 1942 and the proceeds were used to apply on the purchase price of an eight-unit apartment at 6282 Commodore Sloat Drive.

Petitioners reported in their income tax returns for 1943 as long-term capital gain and profit from the sale of the following properties:

	Date* Acquired	Date Sold	Sale Price	Cost Price
1248 S. LaJolla.....	1/ 1/42	5/12/43	\$17,109.66	\$13,500.00
2646 Vineyard.....	1/ 1/42	6/16/43	13,250.00	10,500.00
900 Kenmore	12/26/41	6/ 9/43	44,000.00	32,022.91
6282 Commodore Sloat Dr.	8/29/42	6/11/43	23,900.00	19,715.52
341 N. Croft.....	1/ 1/42	6/ 5/43	9,524.37	7,026.93
1144 S. Hi-Point..	1/ 1/42	9/16/43	7,499.96	5,500.00
2203 Beechwood ..	3/24/43	10/13/43	57,500.00	44,500.00
300 S. Clark.....	1/ 1/42	8/ 5/43	14,000.00	9,520.00

By the end of the calendar year 1943, petitioners had sold all but four of the income producing properties and the eight unimproved lots received on the liquidation of Oxford Associates.

From the sale of the first four properties listed above as sold in 1943 and the sale of a 14-unit building on West 17th Street, petitioners realized approximately \$44,000, which sum they used in the purchase of a 5-story 75-unit apartment house at 1830 North Cherokee. The Cherokee property was purchased in July, 1943, for \$176,000 and required a down-payment of \$35,000 and an additional \$1,500 for taxes and escrow expenses. This apartment building is still owned by the petitioners. Petitioners received monthly rentals of approximately \$1,900 from the five properties sold to finance the Cherokee purchase, whereas the monthly rental income of the Cherokee apartments is in excess of \$4,600.

The property at 341 North Croft was sold on June 5, 1943, and the proceeds used to purchase a 12-unit apartment at 6439 South Orange which petitioners in turn sold on July 8, 1943. A house at 1144 South Hi-Point and a 10-unit apartment at 2203 Beechwood were sold by petitioners and the proceeds used to buy an interest in a 6-story apartment house at 801 South Gramercy. A 4-unit apartment at 300 South Clark was sold and the money

*The properties which are shown as being acquired by petitioners on January 1, 1942, are the properties petitioners received from Oxford Associates on liquidation on that date. These properties were all acquired by the corporation between 1943 and 1941.

obtained was used to purchase two double bungalows on a corner lot which cost \$8,000 and produced substantially the same income.

In addition to the properties acquired from Oxford, petitioners reported as short-term capital gain the profits from the sale of other real estate during the calendar year 1943 as follows:

Address	Date Acquired	Date Sold	Sale Price	Cost Price
626 W. 17th St.....	6/23/43	6/23/43	\$17,500.00	\$12,750.00
6439 S. Orange.....	6/ 1/43	7/ 8/43	27,300.00	24,825.51
424 Kings Rd.....	2/24/43	3/24/43	6,450.00	6,006.00
526 Harper	1/ 9/43	2/26/43	5,900.00	5,049.53
849 S. Holt.....	6/ 6/43	7/ 6/43	7,000.00	6,357.51
1208 Pointview	2/20/43	3/23/43	6,900.00	6,751.96
2031 Manning	10/ 1/43	11/ 1/43	5,600.00	4,533.10

The net rental income derived by petitioners during the calendar years 1942 and 1943 from rental property was \$11,287.58 and \$16,958.08, respectively.

The real properties sold by petitioners during the taxable years 1942 and 1943 were properties held primarily for sale to customers in the ordinary course of their trade or business of buying and selling real estate for profit.

The deficiency notice in each case reads as follows:

The properties sold in 1942 and 1943 from which you reported net capital gains in the amounts of \$3,607.19 and \$29,239.73 respectively, are not capital assets within the meaning of section 117(a)(1) of the Internal Revenue Code, and the gains from the sale of exchange of the properties reported in 1942 and 1943 are fully taxable as business income. The net capital gains reported have been adjusted to reflect their proper status as business income.

OPINION

Arundell, Judge: Specifically, the question herein is whether the properties sold by petitioners in 1942 and 1943 were capital assets within the meaning of section 117(a)(1) of the Internal Revenue Code* or were "property held by the taxpayer primarily for sale to customers in the ordinary course of his trade or business."

During the taxable years involved, Eddy D. Field was engaged in business as a real estate and insurance broker. Apart from this business he was also engaged in holding and renting various properties, chiefly apartments, all of which were owned by him and his wife as community property. Respondent's contention is that the transactions involving the purchase and sale of various properties during 1942 and 1943 were of sufficient frequency and continuity to establish the petitioner in a third trade or business, that of selling real estate on his own account.

Numerous tests have been applied by the courts in determining whether the conduct of a taxpayer in acquiring and selling real estate constitutes the carrying on of a trade or business. See *Boomhower v. United States*, 74 F. Supp. 997. The courts have

*Sec. 117. Capital Gains and Losses.

(a) Definitions.—As used in this chapter—

(1) Capital Assets.—The term "capital assets" means property held by the taxpayer (whether or not connected with his trade or business), but does not include stock in trade of the taxpayer or other property of a kind which would properly be in-

considered the frequency and continuity of the sales or sales related activity over a period of time, *Miller v. Commissioner*, 102 Fed.(2d) 476; the activity of the seller and those acting under his instructions or in his behalf, or the time and labor given to effect the transactions such as by improvements or advertisement to attract purchasers, *Oliver v. Commissioner*, 138 Fed. (2d) 910; the extent or substantiality of the transactions, *Miller v. Commissioner*, *supra*; and to some extent the reasons for, purpose or nature of the acquisition of the property, *Harriss v. Commissioner*, 143 Fed. (2d) 279; *Kanawha Valley Bank*, 4 T.C. 252.

To ascertain whether petitioners were engaged during the taxable years in the business of selling real estate on their own account, we must examine all of the transactions during those years and not only those from which the petitioners reported the profit as long-term capital gain. We also may look to the sales made by petitioners in other years insofar as they relate to the frequency and continuity of such transactions. *Phipps v. Commissioner*, 54 Fed. (2d) 469.

The record discloses that petitioners in 1943 handled no less than 25 separate transactions involving 10 purchases and 15 sales of rental properties. It is significant that 7 of the 10 properties purchased in 1943 were resold within two months

cluded in the inventory of the taxpayer if on hand at the close of the taxable year, or property held by the taxpayer primarily for sale to customers in the ordinary course of his trade or business, * * *.

after the date of purchase. Although petitioners offer various reasons to account for the sale of these properties, we regard such a rapid turnover of properties, all at a profit, as inconsistent with the concept of investing in real property for the purpose of securing rental income.

In the calendar years 1942, 1943, and 1944 petitioners sold a total of 27 different real properties, all at a profit. Three properties were sold in 1942 for \$30,700, from which net gains of \$5,169.24 were realized. In 1943, they sold 15 parcels for \$263,-433.99, from which they derived net gains of \$50,-894.64. In contrast, petitioners reported net rental income of \$11,287.58 and \$16,958.08 for 1942 and 1943, respectively. In 1944 nine properties were sold.

These facts demonstrate that the transactions were of sufficient frequency, continuity and substantiality to constitute the carrying on of a business.

Petitioners explain that these properties were purchased and held by them for investment with the idea of later selling them to acquire larger properties which they regarded as better investments. Petitioners' reasons for purchasing the various properties in question are of little significance if the sales were so extensive as to establish them in the business of selling real estate on their own account. *Ehrman v. Commissioner*, 120 Fed. (2d) 607; *Richards v. Commissioner*, 81 Fed. (2d) 369.

Moreover, in view of the number of properties handled by the petitioners, this explanation actually

indicates that they were in the business of buying and selling realty for a profit and using those profits to increase their investments in other rental property. We would not think it important that they chose to retain such rental units as the 45-unit Baker and 75-unit Cherokee Apartments. How a taxpayer may invest his profits would seem to have little bearing on the question of whether or not he is engaged in a trade or business.

The property at 1500 South Hauser which contained four rental units was acquired by Helen Field in 1936 and sold by her in 1942. The profit realized on this transaction appears to have been treated as community property and the petitioners reported one-half thereof on their separate Federal income tax returns. It is suggested that this transaction was not handled along with the other purchases and sales and that clearly the profit should be treated as a long-term capital gain. In the absence of more detailed evidence and in view of the casual treatment accorded this transaction on brief, we are disposed to treat the profit from this sale in the same manner as the gain from the other properties sold by the petitioners during the taxable years.

On all of the facts of record, we are of the opinion that the properties sold by petitioners during 1942 and 1943 were held by the taxpayers primarily for sale to customers in the ordinary course of their trade or business and that the gain realized from the sale of these properties is properly taxable as business income and not as capital gain under the

provisions of section 117(a)(1) of the Internal Revenue Code.

Entered Feb. 23, 1949.

Decision will be entered under Rule 50.

The Tax Court of the United States
Washington

Docket No. 13721

EDDY D. FIELD,

Petitioner,

vs.

COMMISSIONER OF INTERNAL REVENUE,
·
Respondent.

DECISION

Pursuant to the Memorandum Findings of Fact and Opinion of the Court entered February 23, 1949, the respondent herein, on April 5, 1949, filed a recomputation for entry of decision. Hearing was had thereon on May 4, 1949, at which time the recomputation filed by the respondent was not contested by the petitioner. Wherefore, it is

Ordered and Decided: That there is a deficiency in income and victory tax for the calendar year 1943, in the amount of \$7,913.65.

Entered May 4, 1949.

/s/ C. R. ARUNDELL,
Judge.

The Tax Court of the United States
Washington

Docket No. 13722

HELEN FIELD,

Petitioner,

vs.

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

DECISION

Pursuant to the Memorandum Findings of Fact and Opinion of the Court entered February 23, 1949, the respondent herein, on April 5, 1949, filed a recomputation for entry of decision. Hearing was had thereon on May 4, 1949, at which time the recomputation filed by the respondent was not contested by the petitioner. Wherefore, it is

Ordered and Decided: That there is a deficiency in income and victory tax for the calendar year 1943, in the amount of \$8,083.13.

Entered May 4, 1949.

/s/ C. R. ARUNDELL,
Judge.

The Tax Court of the United States
Docket No. 13721

EDDY D. FIELD,

Petitioner,

vs.

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

Docket No. 13722

HELEN FIELD,

Petitioner,

vs.

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

(Met pursuant to notice.)

Before: Honorable C. R. Arundell, Judge.

Appearances: George Bouchard, for the Petitioners.

A. J. Hurley, for the Respondent. [1*]

PROCEEDINGS

The Clerk: Docket No. 13721, Eddy D. Field,
and 13722, Helen Field.

Mr. Bouchard: The Petitioner is ready.

The Clerk: Please state your appearances.

Mr. Bouchard: George Bouchard for the Peti-
tioner.

* Page numbering appearing at top of page of original Reporter's
Transcript.

Mr. Hurley: A. J. Hurley for the Respondents.

The Court: Have these cases been consolidated for trial?

Mr. Bouchard: I didn't fill out a formal motion, but I would now like to move that they be consolidated.

Mr. Hurley: No objection.

The Court: They will be consolidated for hearing and disposition. Will you let me have an opening statement, Mr. Bouchard.

Opening Statement on Behalf of Petitioners

By Mr. Bouchard:

Mr. Bouchard: May it please the Court, this is a petition to review a determination made by the Commissioner for the years 1942 and 1943, and the sole issue in the case is whether or not these petitioners are entitled to report the profit on the sales of certain pieces of property at capital gain rates, or whether they are subject to the tax as ordinary income, which is the Commissioner's position. That is the sole issue in the case. [3]

The Petitioner's evidence is going to show, your Honor, that Petitioner Eddy D. Field became a real estate salesman back in 1926. He had no money. In 1927 he secured a broker's license from the State of California, which is one of the early ones, and he still has it, and he has been engaged since 1927 in that business of a real estate and insurance broker. The tax returns will be offered in evidence. From them your Honor will notice that his income during the years in question from the real estate

brokerage and insurance business has been very substantial.

In 1934 the Petitioner and his wife organized a corporation to take title to the properties which they purchased from time to time for investment and rental income purposes. During the time of that corporation's existence, from about 1934 to 1940, the company acquired some nineteen different pieces of property. The Petitioner had started in a very small way, and most all of the properties that he purchased were rental properties, but he was able to buy them at very small down payments and the balances secured by mortgages or trust deeds, and as he went along he intended and hoped eventually to acquire large units. By that I mean forty, fifty, sixty or seventy-five unit apartment houses. That was his goal and his aim, but he had to start out in a small way with such properties as he could buy. He had to sell some that he already had to raise cash. I think that [4] the evidence will show, your Honor, that of the nineteen pieces of property that this corporation acquired in the six years of its existence, the Petitioner still owns about twelve of them.

The Court: You mean the Petitioner?

Mr. Bouchard: Pardon?

The Court: You say the Petitioner, but you speak of a corporation.

Mr. Bouchard: Well, I thought I had made this clear, your Honor. The Petitioner did in 1934 organize a corporation to take title to those investment properties.

The Court: Yes.

Mr. Bouchard: That corporation was dissolved. He and his wife owned all the stock. That was dissolved in 1941, December of that year, and the properties that are the subject of this litigation were distributed to the Petitioner and his wife.

The point I wanted to emphasize in referring to the corporation is, at the time of its organization it was organized for the sole purpose of buying and holding property for future investment. In the year 1942 the Petitioner sold three properties and in 1943 he sold eight or nine. He sold more than that, but in any event the properties which he sold in that year, which he had held over six months, on them he reported his gain at capital gain rates. The Commissioner [5] has denied him that right and claims that he is a dealer who bought these properties primarily for sale, and accordingly is subject to tax at ordinary rates.

It is our contention that the properties which are the subject of this litigation were not properties held primarily for sale, but were properties that were acquired and held for investment and rental income purposes, and of course, if the evidence sustains that position, I presume that the law is that we are entitled to report our profit as we have done. I think that is sufficient.

Opening Statement on Behalf of Respondent
By Mr. Hurley

Mr. Hurley: If the Court please, the issues in

this case—I should say the simple issue in this case is, as Mr. Bouchard has stated, whether the properties in question were held by the Petitioner for sale to customers in the ordinary course of his trade or business. It is true that the majority, I should say the major part of Petitioner's income was received from real estate broker's commissions. Nevertheless we are convinced that the evidence will show that Petitioner was likewise engaged in the business of selling real estate on his own account. In the taxable year he realized in excess of \$50,000.00 from the sale of such properties. It is not necessary under the law for a respondent to prove or to show that the properties were originally purchased for resale to [6] customers. It is sufficient, as I understand the law, that the Respondent show that the properties were held for sale in the ordinary course of the Petitioner's business. The Respondent does not contend that the Petitioner, in 1926 or '27, or even when he originally purchased the property—it is not necessary that the Respondent show such properties were purchased originally for this purpose, but the sales in 1942 and 1943, there were fifteen properties in 1943, there were three properties in 1942 and nine properties in 1944, none of which were sold at anything but a profit, and the transactions were of sufficient frequency and continuity that they constitute a trade or business.

The Court: Were there purchases during those years too?

Mr. Hurley: Yes, your Honor, purchases and sales. That concludes the Respondent's opening statement.

The Court: Is Mrs. Field here simply because this is community property?

Mr. Bouchard: That is right, your Honor.

Mr. Hurley: Yes.

Mr. Bouchard: Mr. Field, please. [7]

Whereupon,

EDDY D. FIELD,

called as a witness for 'and on behalf of the Petitioners, having been first duly sworn, was examined and testified as follows:

The Clerk: Please be seated, state 'your name and address.

The Witness: Eddy D. Field, 940 South La Brea Avenue, Los Angeles.

Mr. Bouchard: At the outset, your Honor, Mr. Hurley and I are stipulating—I think it is government counsel's desire to offer in evidence the tax returns for 1942 and '43.

Mr. Hurley: Yes, at the conclusion of the hearing, your Honor, we intend to use them.

Mr. Bouchard: It is stipulated between us that the dates of acquisition of the properties and dates of sale, the costs and the selling prices are as indicated on the return. Is that correct?

Mr. Hurley: That is correct.

Mr. Bouchard: So we have no problem of proving those matters. [8]

(Testimony of Eddy D. Field.)

Direct Examination

By Mr. Bouchard:

Q. Mr. Field, you have given your address, I believe. A. Yes, I did.

The Court: May I ask, is there any dispute as to the amount of the profits?

Mr. Bouchard: None whatever.

The Court: They are correctly stated on the return?

Mr. Bouchard: That is right.

Mr. Hurley: Yes, your Honor.

Q. (By Mr. Bouchard): Mr. Field, is Helen Field your wife? A. She is.

Q. When were you married?

A. September 14, 1929.

Q. What is your business?

A. Real estate and insurance broker.

Q. In the City of Los Angeles?

A. Yes, sir.

Q. Has Mrs. Field ever been connected with your brokerage or insurance business?

A. Never has.

Q. How long have you been a real estate broker in this city? A. Since 1927. [9]

Q. Do you hold a broker's license in the state?

A. I do.

Q. How long have you had that?

A. Since 1927.

Q. When did you start in business as a real estate salesman or otherwise? A. 1926.

(Testimony of Eddy D. Field.)

Q. What were your financial resources at that time? A. I didn't have any.

Q. Is your real estate and brokerage business incorporated? A. Not now, no.

Q. It was? A. It was, yes, sir.

Q. When was it organized?

A. Originally it was organized in 1927.

Q. And it continued how long?

A. Until about 1934, I believe. Originally it was three partners.

Q. Then what happened?

A. Then two of us bought one partner out, and then I eventually in 1934 bought the other partner out.

Q. So you have been engaged in business on your own account since 1934?

A. 1933 or '34, yes, sir. [10]

Q. Now, Mr. Field, as a real estate broker, what are and have been your duties and your function?

A. Well, we listed the property for sale. We naturally have salesmen working in the office. We caravan the property and inspect the property, and if the property is a salable property, we advertise it, put up signs on it, and we try to sell it.

Q. In other words, you represent buyers and sellers of property? A. That is right.

Q. And on what basis?

A. On a commission basis.

Q. Have you ever held yourself out to the public as being engaged in any business other than a real estate and insurance broker?

(Testimony of Eddy D. Field.)

A. No, I have not.

Q. Did you ever hear of a company known as Oxford Associates? A. Yes, I have.

Q. What was that company?

A. That was a holding company that my wife and I formed in, I think it was 1934.

Q. For what purpose did you organize it?

A. We organized it to purchase rental income properties.

Q. And was the title to such properties as you acquired [11] taken in the name of that corporation? A. That is right.

Q. And you and Mrs. Field owned all the stock?

A. That is right.

Q. What type of property did you first start acquiring?

A. Well, we were limited in money, and we bought small properties, duplexes, five hundred or a thousand dollars down, or four units or whatever we could purchase at the time.

Mr. Hurley: May I interrupt at this point, your Honor? I will request counsel to distinguish at this time between the corporation and the Petitioners individually. When you speak of "you" I think in this instance you refer to the corporation, is that correct?

Mr. Bouchard: I guess it is.

Mr. Hurley: I think for purposes of the record we better have a distinction between the individually acquired properties and corporation properties.

(Testimony of Eddy D. Field.)

The Court: You might place at the outset the date of organization of this corporation. What was the date, and whether any property was paid in and what it was and so forth.

Q. (By Mr. Bouchard): Was there any property turned into this corporation by either of you at the time of its organization?

A. I don't recall that, Mr. Bouchard. There may have been. I really don't recall that, but as I understand, if I [12] understand correctly, we started the corporation and then we bought the capital stock, I think we issued two thousand dollars. That is what my memory recalls. I am not sure.

Q. You paid in \$2000.00?

A. I believe that was it.

Q. In cash for the stock of the company?

A. That is right.

Q. And then this corporation proceeded to acquire small properties where you could make a small down payment and the balance on a mortgage? A. That is right.

Q. What type of properties did you acquire?

A. Double bungalows, four flats, anything that we could handle with what limited capital we had at the time that would show a rental income.

Q. And they were all rental income properties that were acquired?

A. Yes, at the time, that is right.

Q. This corporation was dissolved when?

(Testimony of Eddy D. Field.)

A. December 31, 1941.

Q. And do you recall how many pieces of property that corporation had acquired between its organization in 1934 and the date of its dissolution in 1941? A. I believe it was nineteen.

Q. Of those nineteen properties, how many of them do [13] you still own?

A. I think it is twelve.

Q. Now, at the time of the dissolution of the corporation, were those properties appraised?

A. Yes, they were.

Q. And the costs that are shown on your tax returns for these properties are what figure?

A. The figure that the appraiser put on.

Q. The fair market as of the date of dissolution in 1941?

A. That is correct. We had an outstanding appraiser appraise them.

Q. Mr. Field, how many sales of real estate did you and your office handle in 1942 on which you received commissions?

A. One hundred and forty-eight.

Q. And how many different sales of some type did you have in 1943?

A. I think it was one hundred fifty-five or one hundred fifty-eight, one of the two, right in there.

Q. Now, in 1942, Mr. Field, you sold a property at 1500 South Hauser. What kind of a property was that?

A. That is a four flat. My wife sold that. That belonged to her.

(Testimony of Eddy D. Field.)

Q. Do you know when she acquired it? [14]

A. She acquired a half interest some time in 1936 from Mr. and Mrs. Newton, and then she acquired the other half interest in 1939, I believe.

Q. And do you know why she sold that property in 1942?

A. Yes. Her mother and sister were living there at the time, and the doctor wanted to get my mother-in-law out of the location, which was rather low, south of Pico.

Q. Why was that Hauser property acquired?

A. Well, she had a chance to buy this with a small down payment with Mr. and Mrs. Newton on a half interest, and then she bought them out, I think in 1939, I believe, for a small down payment there also.

Q. Was that a rental property?

A. Yes. It was four units.

Q. Now in 1942 you also sold a piece of property at 1515 South Roxbury. What kind of a property was that? A. That was a four unit.

Q. When did you acquire it?

A. Can I refer to my notes, Mr. Bouchard?

Q. Yes, you may.

A. I think I have it right here. The corporation acquired that in 1938, September. We paid \$1500.00 down.

Q. Why did you buy that property?

A. Small down payment and for the rental income. We had to assume the first and second trust deeds on that property [15] too.

(Testimony of Eddy D. Field.)

Q. Why did you sell that property?

A. We sold that property to buy an eight unit located on Commodore Sloat, 6282 Commodore Sloat.

Q. Why did you buy the property on Commodore Sloat?

A. Because we could handle that with a small down payment, and the rental income, which instead of four units we had eight units coming in.

Q. And you purchased that for its rental income? A. That is right.

Q. And now in May of 1943 you sold a property at 1248 South La Jolla. What kind of property was that?

A. That was a four unit. We bought it in about 1938. We paid a thousand dollars down and assumed the first and second liens, and we sold it in 1943. At the time we bought it it happened to be on a key lot adjoining the back of a business, business fronts backed up with the alley, thinking we would hold it. They built a bowling alley and liquor store there, and that made it very disagreeable for the tenants and we sold that. We also applied that to purchase another piece of property.

Q. Why did you buy that property?

A. A thousand dollars down, small down payment, and for the rental income.

The Court: Which property are you talking about now? [16]

(Testimony of Eddy D. Field.)

Mr. Bouchard: La Jolla, your Honor.

The Witness: La Jolla.

Mr. Hurley: If your Honor please, I think perhaps it would assist the Court to get a recapitulation and summary of the properties involved in the taxable year 1943, and this is taken from the return itself.

Q. (By Mr. Bouchard): Now, Mr. Field, in June of 1943 you sold a property at 2646 Vineyard. What kind of a property was that?

A. That was a six unit that we acquired in 1936, January. We acquired that because of the six rentals and we could get it at \$1500.00 down, rental income, and we sold it to buy a seventy-five unit apartment at 1830 North Cherokee.

Q. What address on Cherokee?

A. 1830 North Cherokee.

Q. That is you say a seventy-five unit apartment?

A. Yes, five stores and a seventy-five unit apartment.

Q. When did you acquire that?

A. July, 1943.

Q. What was its purchase price?

A. \$176,000.00.

Q. What down payment?

A. We paid \$35,000.00 down, and then we paid off about \$1500.00 taxes and escrow expenses, about \$36,500.00 roughly.

Q. Do you still own Cherokee? [17]

(Testimony of Eddy D. Field.)

A. Yes, I do.

Q. The original mortgage on that was how much? A. \$140,000.00.

Q. And has it been reduced?

A. It is down to fifty-two or fifty-three thousand I think.

Q. Have you ever had an opportunity to sell that at a profit?

A. Numerous occasions. I turned down \$450,000.00 for it.

Q. Why didn't you sell it?

A. That is the type of property that my wife and I have been wanting to get ever since we have been married. It is a permanent investment as far as we are concerned, shows a nice rental income.

Q. Now in June of 1943 you sold a property at 900 South Kenmore. What kind of property was that? A. That was a twelve unit.

Q. When did you acquire it?

A. December, 1941.

Q. Why did you buy it?

A. A small down payment and the rental income.

Q. Why did you sell it?

A. To purchase Cherokee.

Q. Now in June of 1943 you also sold a property at 341 [18] North Croft. What kind of a property was that? A. That was a duplex.

Q. When had you acquired it?

A. 1935, I believe.

Q. Why did you buy that property?

(Testimony of Eddy D. Field.)

A. That is right, 1935. It was a duplex. We paid \$500.00 down on it and it had a rental income.

Q. Why did you sell Croft?

A. We sold Croft to buy 6439 Orange, which was a twelve unit building.

Q. Now in June of 1943 you also sold a property at 6282 Commodore Sloat Drive. What kind of a property was that? A. That is an eight unit.

Q. When had you acquired it?

A. August, 1942.

Q. Why did you buy it?

A. Well, the same reason. It was a small down payment there and the rental income. We were trying to increase our income on those rentals all the time.

Q. Why did you sell the Commodore Sloat property? A. We bought 1830 North Cherokee.

Q. Now, you have told us of four properties you sold in 1943 for the purpose of purchasing Cherokee. How much money did you realize from the sale of these four pieces of property? [19]

A. I would say approximately thirty-six or thirty-seven thousand, somewhere in that neighborhood.

Q. What was your down payment on Cherokee?

A. Thirty-five thousand was the down payment, plus escrow and title expense, taxes, about thirty-six five or thirty-six six, something like that.

Q. Was there some other piece of property that you sold about that time? A. Yes, I did.

(Testimony of Eddy D. Field.)

Q. And that you purchased Cherokee?

A. On West Seventeenth Street.

Q. What type of a property was that?

A. That was a three story fourteen unit frame building.

Q. Why had you purchased that?

A. Because we could buy it with \$3200.00 down and the income.

Q. And when did you sell that, do you recall?

A. I sold that in June, if I am not mistaken and—

Q. Of 1943? A. That is right, June, 1943.

Q. From these five properties that you sold in order to purchase Cherokee, how much cash did you realize?

A. Around forty-four to forty-five thousand.

Q. These properties that you sold in order to purchase Cherokee, I understand were rental properties? [20] A. That is right.

Q. What monthly rent did you derive from these five properties that you sold?

A. On the five, nineteen hundred some odd dollars.

Q. A month? A. A month, yes, sir.

Q. What was the monthly income, rental income that you got from Cherokee?

A. \$4600 and something.

Q. And now, in August of 1943 you sold a property at 300 South Park. What kind of a property was that?

(Testimony of Eddy D. Field.)

A. That was a four unit purchased in 1936.

Q. Why did you buy that?

A. Well, we had a chance to buy two double bungalows, showing—

Q. I didn't ask you why you sold it. I asked you why you bought it.

A. Why we bought it was on account of the rental income. Pardon me. I am sorry.

Q. Now you can tell us, why did you sell it?

A. Well, the rents were frozen on 300 South Park. We had a chance to buy two double bungalows on a corner lot that showed almost the same income, at a price of \$8,000.00.

Q. Now in September, 1943, you sold a property at 1144 South Hi-Point. What kind of property was that? [21] A. That was a house.

Q. When did you acquire it?

A. Back in 1935 or something like that, 1936—1936, January, 1936.

Q. Why did you buy that property?

A. Well, that house was seven hundred fifty down, that is what we paid down on it, and it was rented for \$60.00 a month, which was good income at that time.

Q. And why did you sell it?

A. It became—for two reasons; it became vacant and there was an O.P.A. on it at the \$60.00 rental, and we used the money to help purchase an interest in a six story apartment at 801 South Gramercy.

Q. In October of 1943 you sold a property at

(Testimony of Eddy D. Field.)

2203 Beachwood. What kind of a property was that? A. That was a ten unit.

Q. When did you acquire that?

A. March, I think it was, 1943.

Q. Why did you buy that property?

A. The down payment and the rental income.

Q. And when you say the down payment, you mean the down payment was—

A. The down payment required.

Q. Was small?

A. Cash down payment, yes. [22]

Q. Why did you sell the Beachwood property?

A. Well, the same reason we sold Hi-Point was one of the reasons, we purchased an interest in the big apartment at 801 Gramercy. It was our aim to get big apartments we would hold to.

Q. How big an apartment was this 801 South Gramercy?

A. It was six story, I believe.

Q. Mr. Field, did you ever use any of the moneys that you received from any of these sales in your brokerage or insurance business?

A. No, I did not. I took the money from the brokerage business.

Q. What did you do with the moneys that you received from the sales of the properties we have been talking about?

A. One of two things: We tried to invest it in better rental properties or to pay off existing trust deeds that we had on the properties some of which

(Testimony of Eddy D. Field.)

had second trust deeds, and we wanted to increase our equity in them as much as possible.

Q. Mr. Field, did you ever hold these properties about which we have been talking, primarily for sale? A. No, I did not.

Q. How much of your time was devoted to handling your rental properties?

A. Practically nothing. There were other offices that I was managing, plus the main office. At that time I think I [23] had two offices plus the main office.

Q. Did any of your employees in the brokerage office devote any of their time to your real estate management?

A. No, they did not. The bookkeeper, Mr. Bouchard, kept the books.

Q. Mr. Field, do you own a property at 338 North La Brea? A. I do.

Q. What kind of a property is that?

A. That is two stores with six apartments above.

Q. And when was that acquired?

A. 1936, I believe.

Q. Is that a rental property?

A. Yes, it is.

Q. Do you own a property known as the Baker Apartments? A. We do.

Q. What kind of a property is that?

A. That is a four story brick, forty-five units.

Q. When did you acquire that?

A. I believe it was 1938.

(Testimony of Eddy D. Field.)

Q. Have you ever had an opportunity to sell that property?

A. Yes. I have turned down numerous offers. I turned down one for \$135,000.00.

Q. Why didn't you sell it? [24]

A. Well, that is the type of property that we like to keep, Mr. Bouchard, shows a good rental income on the investment and good location.

Mr. Bouchard: Your Honor, excuse me just a minute. That is all, your Honor.

Cross-Examination

By Mr. Hurley:

Q. Mr. Field, I believe you testified that you at present still own twelve of the nineteen properties which were transferred to you on the liquidation of the corporation in 1942, at the end of 1941, is that correct?

A. Well, you have a list there. That is what I at that time—we owned the twelve we are talking about at that time. We owned—I can tell you exactly what they are if you want to get the list of them.

Q. Well, I would like to know whether you now own twelve of the nineteen. Is that correct? Yes or no.

A. Yes, I do. We do.

Q. All right, would you give me a list of the twelve properties?

A. That is what I was going to do for you. The first one would be 330 La Brea, 845 West Olympic,

(Testimony of Eddy D. Field.)

two lots one forty-five and one forty-six of tract 5070. Lot 8—

Q. I can't quite keep up. What was the name of that tract on which you had lots? [25]

A. 5070. Westwood corner of Rochester.

Q. What?

A. Corner of Westwood and Rochester. 6030 Whitworth. 1019 La Brea.

Q. Do you think of any others?

A. I can tell you. You get the list there. I am telling you what I recollect, but it is hard to remember back that far on it.

Q. Perhaps Mr. Bouchard can help you out on that. I am simply interested in having an accurate list of the properties.

Mr. Bouchard: Do you want me to ask him?

Mr. Hurley: Yes.

Mr. Bouchard: Do you now own 1639 Gower?

The Witness: We do.

Mr. Bouchard: Do you know when you got that?

The Witness: That was acquired by the corporation.

Mr. Bouchard: When did the company get it, do you recall?

The Witness: I don't recall. I think it might be 1938 or 1937. I really don't know.

Mr. Hurley: Mr. Bouchard, I am simply interested in learning what twelve properties remain from the nineteen received in liquidation of the

(Testimony of Eddy D. Field.)

corporation and their addresses. It is not important when they were acquired. [26]

Mr. Bouchard: Well, I am giving it to you.

Q. (By Mr. Hurley): Do you recall the question?

A. Gower is one, 1639 North Gower. You can read them off.

Mr. Bouchard: 338 and 40 La Brea?

The Witness: We still have that. By the way, that address has been changed, 330 and 32 is the changed address, as I remember.

Mr. Bouchard: You testified to Whitworth.

The Witness: That is right.

Mr. Bouchard: The Baker Apartments.

Mr. Hurley: Pardon me, Mr. Bouchard. Do you have a list of the properties received on liquidation?

Mr. Bouchard: I think this is it right here.

Mr. Hurley: May I have that list and I can perhaps more easily secure the information.

Q. (By Mr. Hurley): Mr. Field, here is a list of properties. A. Okeh.

Q. Distributed to you on the liquidation of the corporation, as I understand it.

A. That is right.

Q. Now, number one is 300 South Clark. Do you still have that property? [27]

A. I do not.

Q. The next is 331 North Croft. Do you still own that property? A. Yes.

(Testimony of Eddy D. Field.)

Q. The next is a parking lot at 1639 Gower. Do you still own that? A. I do.

Q. The next is 1144 Hi-Point. A. No.

Q. 338 North La Brea? A. Yes.

Q. 1248 South La Jolla? A. No, sir.

Q. 1108 South Longwood? A. No.

Q. 1315 South Rockdale? A. No.

Q. 2646 Van Ness? A. No.

Q. 6016 Whitworth? A. Yes.

Q. Baker Apartments? A. Right.

Q. That is a different address than 6016?

A. Yes, that is 845 West Olympic. [28]

Q. Baker Apartments are 845 West Olympic?

A. That is right. We own those.

Q. Lot 8, Block 39, Tract 9300. Do you still own that? A. Yes, we do.

Q. You own all of these unimproved properties?

A. That is right.

Q. All right. For the record I would like to read the other properties: Lot Number 22, Block 20, Tract 6450. Lot 144, Tract 5070. Lot 145, Tract 5070. Lot 146 and 147, two lots, Tract 5070. Lot Number 1, Block 5, Tract 7803. And those are the properties and all of the properties that you received from liquidation?

A. This one I know. I know this one right here. I am not very familiar with this one right here, I just can't place that one. There is a question on some of them.

Q. As to whether or not you still own them or have sold them, is that right?

(Testimony of Eddy D. Field.)

A. That is correct.

Q. At any rate, the list we have just read is the list of properties that you received from liquidation of the corporation?

A. As far as I know that is right.

Q. Now, of those properties, Mr. Field, you still retain, which are income producing properties?

A. All right. The parking lot is leased. [29]

Q. All right.

A. 330 La Brea, that is two stores and six apartments, that is income property. The Whitworth is eight units. The Baker is forty-three or forty-five units. We still have that.

Q. I see. Now, the remaining lots are non-income producing lots, is that correct?

A. Yes.

Q. You mean there are no improvements on those lots?

A. That is right, right now, and they only produce right now for signs and things like that.

Q. So as far as those nineteen properties distributed to you, you have retained only four income producing properties, is that correct?

That is the total that you gave me.

A. Yes, whatever it is, yes. The Westwood corner here, I might tell you on that one right there that I bought this—

Mr. Bouchard: Speak up, Mr. Field. We don't hear you.

The Witness: Originally the lot in Westwood—

(Testimony of Eddy D. Field.)

I bought this originally to—really for the Auto Club, originally to lease it to them, but it didn't work out. I did have a few dickering with me on the lots, but—

Q. (By Mr. Hurley): When was that?

A. Oh, that was quite a while ago, years ago.

Q. Years ago? A. That is right.

Q. Now, Mr. Field, on direct examination, when counsel went down the list of properties starting with 1248 South La Jolla, the dates of acquisition which you testified to were the dates of acquisition by the corporation, is that correct?

A. That is right, by the corporation. The corporation, in other words, 1935, 1937, 1938, any prior to December 31, 1941 would be the corporation.

Q. And the dates shown on your tax returns, which I have made a schedule of here, namely 1-1-42, that property was acquired on the 1st of January, 1942 from the corporation in the liquidation, is that right? A. That is correct.

Q. Now, Mr. Field, during the period that the Oxford Associates Corporation was in existence, did that corporation sell any properties?

A. During the period, do you mean from the time it was incorporated?

Q. Yes.

A. To the time in 1942, before 1942?

Q. Yes.

A. Yes. As I said before, Mr. Hurley, we would buy a piece of property with a small down payment,

(Testimony of Eddy D. Field.)

from the rental [31] income, we would try to better ourselves at all times, increase our rental income or increase our equities, and we did, I don't know how many, I wouldn't have any idea.

Q. Well, they were not infrequent, were they?

A. Well, I couldn't answer that. I wouldn't know about how often—you mean how many pieces were bought?

Q. Yes.

A. Whether it is five or six or seven, that is what you want to know?

Q. Yes. Or ten.

A. I don't think it would be, it might be ten. I don't know. It might not. I don't know.

Q. It could easily be ten pieces of property that were sold by the corporation?

A. No, I don't think so. It might be. I wouldn't know. I can't answer that question, Mr. Hurley.

Q. You recall the property at North Swall Drive acquired by the corporation in 1936?

A. I believe that is a four unit, isn't it? I am not sure. I think it is a four unit. I am not sure.

Q. I mean, do you recall that the property was sold by the corporation.

A. Well, I don't know. What is the address on Swall?

Q. 138 North Swall.

A. Is that the corner of Beverly Boulevard?

Q. You don't recall that was bought in 1936 and sold by the corporation in 1937?

(Testimony of Eddy D. Field.)

A. It might be, I wouldn't say.

Q. You don't have any independent recollection on that?

A. No. I didn't know you wanted to ask that question or I could have looked it up very easily. I believe it is a four unit on the corner of Beverly Boulevard, if I am not mistaken, and Swall.

Q. But in any event the corporation did not own it after 1936, did it?

A. If the corporation sold it in 1936 as you say, they wouldn't own it, would they?

Q. I am not stating that they did. I am inquiring as to whether the corporation did.

A. I can not—back in 1936 I wouldn't know, unless I looked on the books, Mr. Hurley. That would be impossible.

Q. Mr. Field, do you know what your gain in dollars, without any distinction as to short term and long term capital gain, was in the taxable year 1943 on the sale of properties for your own account, that is properties purchased for you and sold by you?

A. Well, I believe your income tax statement would show it, wouldn't it, Mr. Hurley?

Mr. Hurley: For the convenience of the Court, I would like to introduce in evidence as Respondent's Exhibits [33] A and B schedules showing the gain on sales of property by the Petitioner in the taxable year 1943. I will give counsel an opportunity to check these schedules with the returns.

(Testimony of Eddy D. Field.)

Mr. Bouchard: I take it you have copies that out of the returns?

Mr. Hurley: Yes, Mr. Bouchard, I have, and in the event there should be any great variance, the returns are in evidence and would be the primary evidence on the question.

The Clerk: Exhibits A and B.

The Court: They will be received.

(The documents above referred to were received in evidence and marked Respondent's Exhibits A and B.)

(Testimony of Eddy D. Field.)

EXHIBIT A
Properties Sold in Year 1943

Address	Short Term	Date Acquired	Date Sold	Sale Price	Cost Price	Sell. Exp. Add'l Costs	Gain
626 West 17th Street.....		6/23/43	6/23/43	17,500.00	12,750.00	955.03	3,792.97
6439 South Orange.....		6/ 1/43	7/ 8/43	27,300.00	24,825.51	155.00	2,319.49
424 Kings Road.....		2/24/43	3/24/43	6,450.00	6,006.00	22.65	421.35
526 Harper		1/ 9/43	2/26/43	5,900.00	5,019.53	52.50	797.97
849 South Holt		6/ 6/43	7/ 6/43	7,000.00	6,357.51	56.87	585.62
1208 Pointview		2/20/43	3/23/43	6,900.00	6,751.96	101.30	46.74
2031 Manning		10/ 1/43	11/ 1/43	5,600.00	4,533.10	294.00	772.90

(Testimony of Eddy D. Field.)

EXHIBIT B
Properties Sold in Year 1943

Address	Long Term			Cost Price	Sell. Exp. Add'l Costs	Gain
	Date Acquired	Date Sold	Sale Price			
1248 South La Jolla.....	1/ 1/42	5/12/43	17,109.66	13,500.00	409.66	3,670.00
2646 Vineyard	1/ 1/42	6/16/43	13,250.00	10,500.00	113.45	3,061.55
900 Kenmore	12/26/41	6/ 9/43	44,000.00	32,022.91	1,712.65	11,109.04
341 So. Croft	1/ 1/42	6/ 5/43	9,524.37	7,026.93	70.70	2,689.24
1144 So. Hipoint	1/ 1/42	9/16/43	7,499.96	5,500.00	293.75	1,906.21
2203 Beechwood	3/24/43	10/13/43	57,500.00	44,500.00	773.56	12,226.44
300 So. Clark	1/ 1/42	8/ 5/43	14,000.00	9,520.00	89.40	4,690.60
6282 Commodore Sloat Dr.....	8/29/42	6/11/43	23,900.00	19,715.52	1,565.02	2,804.52

(Testimony of Eddy D. Field.)

Q. (By Mr. Hurley): Mr. Field, I ask you, in the year 1943 you sold a property on 626 West Seventeenth Street, is that correct?

A. That is right.

Q. When was that property acquired? Do you have your notes there?

A. Just a minute. I will refer to my notes here. June 23, 1943.

Q. It was acquired on June 23, and sold on June 23, is that correct?

A. It was acquired and went to escrow on May 11, 1943. That is when we went to escrow, May 11. The close of the escrow was June 23. That was one of the properties that we [34] had to sell in the Commodore, 1839 North Cherokee, that is the Commodore property.

Q. The tax return shows that the property was acquired on June 23, 1943.

A. That is when we acquired it. We went to escrow May 11.

Q. The property at 6439 South Bennett, was that property sold in 1943? A. Yes, it was.

Q. On what date was that property acquired?

A. Acquired that on May 22. That is the date it was filed.

Q. When was it sold? A. July 6, 1943.

Q. And the property at 424 Kings Road, when was that property acquired?

A. That was acquired on September 24—pardon me, February 24, 1943.

(Testimony of Eddy D. Field.)

Q. 1943? A. That is right.

Q. When was it sold? A. March 24, 1943.

Q. I didn't quite understand you.

A. March 24, 1943.

Q. The property at 526 Harper, when did you acquire [35] that property?

A. We opened the escrow January 9 and we acquired it on February 25, 1943.

Q. And it was sold on February 26, 1943, is that correct?

A. Yes. I have it here February 25. I don't know.

Q. When was it acquired?

A. We went to escrow on January 9 and we acquired it February 25.

Q. When was it sold?

A. Is that right now, Mr. Bouchard?

Q. The same day?

A. No, it was not sold the same day. We opened the escrow here on January 9, 1943.

Q. What date was the property sold?

A. February 25, 1943.

Q. It was sold on February 25, 1943?

A. Yes. Now, then, I will explain that to you. We went to escrow January 9. In the meantime we had a chance to purchase a four story building at 739 South Normandie, and we had to have some money, so we turned around and sold this particular property.

Q. And how about the property at 849 South Holt, when was that acquired?

(Testimony of Eddy D. Field.)

A. We bought that or acquired it I think June 6, 1943, [36] I believe.

Q. On June 6th? A. I think it was.

Q. When was it sold? A. July 6th.

Q. 1943?

A. Yes. That was bought, my mother-in-law and my sister, we bought that property for her. After the purchase and while in escrow she had a stroke and couldn't move into the house, was never in that house.

Q. How about the property at 2012 Point View. When was that acquired?

A. February 20, 1943.

Q. When was it sold?

A. March 15, 1943 we sold that to purchase Beachwood.

Q. The property at 2031 Manning, when was that purchased? A. October 1, 1943.

Q. When was it sold?

A. November 9, 1943.

Q. Now, Mr. Field, you likewise sold properties in 1944 which were acquired by you in 1943 and prior dates, is that correct?

Mr. Bouchard: That is objected to as incompetent, irrelevant and immaterial, what he did at any time after [37] December 31, 1943.

The Court: Overruled.

Q. (By Mr. Hurley): Do you have your notes on your 1944 transactions? A. I do not.

Q. Mr. Field, I have what purports to be your

(Testimony of Eddy D. Field.)

individual 1944 income tax return. Is that your signature? A. Yes, sir.

Q. Do you recognize the return?

A. That is my signature on it. I imagine it is mine.

Q. I direct your attention to Schedule D on that return, in which you list the sales of property.

A. Yes.

Q. Made in that year? A. Yes.

Q. Now, according to that schedule you sold a property at 744 North Ogden on the date indicated, 11-26-43, and the date sold was January 22, 1944, is that correct?

A. That is it. That must be correct, yes, sir.

Mr. Hurley: If your Honor please, if I can introduce the return it would expedite the trial. If Mr. Bouchard has no objection. I would like to introduce the return which the witness has testified that the schedule which is attached to the return is the correct account of the transactions made in the year 1944. [38]

Mr. Bouchard: Of course, I think your Honor has overruled me on my objection.

The Court: I think you may make a general inquiry into the conduct of his business both before and after the date, but I don't know that we should have testimony on the detail of transactions.

Mr. Hurley: Yes, your Honor. I am simply trying to show—

The Court: You are just trying to show that he is in business as a trader both before and after

(Testimony of Eddy D. Field.)

the tax date, but I don't think you should have the details about it.

Mr. Hurley: No, I only intended, your Honor, to show enough of the transactions in 1944 on properties acquired in 1943, and almost contemporaneously with the sales, so as to show that there was a continuous business of buying and selling properties, and not simply a liquidation of properties acquired years and years ago for other purposes, and I would propose therefore to show it in the examination simply by asking Mr. Field whether or not he has sold nine properties in 1944.

The Witness: That is right.

Q. (By Mr. Hurley): Are those all improved income producing properties, Mr. Field?

A. Yes, they are. [39]

Q. They are? A. They are, yes, sir.

Mr. Hurley: I would also like to have in evidence, your Honor, the fact that the amount of those sales aggregated \$33,163.24. Would you stipulate to that figure, Mr. Bouchard?

Mr. Bouchard: That is 1944?

Mr. Hurley: That is for 1944.

Mr. Bouchard: I assume that is correct.

Q. (By Mr. Hurley): I further ask you, Mr. Field, whether all these properties were sold at a gain and none of the properties sold at a loss. Is that correct?

A. That is right. I can tell you why they were sold if you want to know.

(Testimony of Eddy D. Field.)

Q. Well, I don't think that would be necessary at this time. I would further like to ask you whether or not the properties sold in 1943 and in 1942, to which you have previously testified, were not either sold at a gain or none sold at a loss, is that correct?

A. As far as I recall, that is correct, Mr. Hurley. I believe any property that was acquired back six or eight or ten years would be sold at a gain, the way things were on the market.

Q. I also ask you whether the properties acquired [40] which were sold and on which there were not several months intervening between the acquisition and sale were not sold at a gain.

A. There is one little particular property there with \$40.00 profit, or \$48.00 profit, whatever it is, it isn't anything to speak of.

Q. I simply asked the question whether any of the properties were sold at a loss. A. No.

Q. They were not? A. No, they were not.

Q. Mr. Field, referring again to your 1943 return and Schedule B attached thereto, you will notice the column headed selling expense and additional costs? A. Yes.

Q. In which are set forth various amounts which represent selling expense and additional costs on the sale of these various properties made in 1943. Can you tell the Court what the item listed opposite each property actually represents?

A. I had the bookkeeper get that—

(Testimony of Eddy D. Field.)

Mr. Bouchard: Talk a little louder, please.

The Witness: I had the bookkeeper get that for me. That was what you requested, I believe, in your letter. [41]

Q. Yes, that is correct.

A. It must be over in the place there. Just a minute. Here you are.

Q. That represents a breakdown of it?

A. Each profit you are asking about as it was returned on the tax.

Q. Now, the item——

The Court: What are you referring to, Mr. Hurley?

Mr. Hurley: If your Honor please, I am referring to the schedule attached to the 1943 return.

The Court: Is that going to be intelligible in the record?

Mr. Hurley: It should be. It is in this exhibit by years and dates, and I think I have identified the fact I am referring to this particular schedule. Let the record show I am now referring to the South La Jolla property as shown under item "Long Term Capital Gains and Losses" in Schedule B for 1943 Income Tax Return of Eddy B. Field.

Q. (By Mr. Hurley): Now, you have under the column "Selling Expense and Additional Expense" the item \$409.66. Do you have a breakdown of that item?

A. It is right here, from here up.

Q. All right. Mr. Field, do you have in your notes there the amount that you realized on the

(Testimony of Eddy D. Field.)

rental of the properties [42] during the taxable year 1943? A. No, I don't.

Q. That amount is set forth in your 1943 return, is that correct? A. That is right.

Q. And is the amount that you realized on the sale of properties during the taxable year 1943 likewise reflected correctly on your return?

A. That is right. There was one exception, I believe—no, that was 1942. That is okeh. That is right.

Mr. Hurley: I have no further questions.

Mr. Bouchard: Just one more, please.

Redirect Examination

By Mr. Bouchard:

Q. Mr. Field, when Mr. Hurley was asking you about these 1944 sales, you told him that you could tell him why those properties were sold. Tell me. I would like to know.

A. I think the first one was on Garfield. That was a duplex I bought in 1943. I bought that for my sister, who was engaged at the time and I thought was going to be married, and we were going to rent it to her. However, it didn't pan out that way, and I sold it, because that is the only property—Glendale is quite a ways from my operation. And now the other one is, may I see the list? Normandie. I believe it was Gramercy, 801 Gramercy. I bought a half interest in that and [43] the partner that I had, it was either a case of buy or sell, and I had to sell. Unfortunately I might say

(Testimony of Eddy D. Field.)

too, we did not get along. 1173 Highland was bought in 1940. 739 Normandie, we sold that one because that happened to be in a district that was not the type of property we wanted. It was almost a red light district, or whatever you want to call it.

Mr. Hurley: Mr. Bouchard, the witness is not testifying now to the properties I examined him on. These properties are the 1944 sales. Here is his schedule.

Mr. Bouchard: I thought that is what you examined him on.

Mr. Hurley: No, those were properties simply summarized. These are the properties I examined him on.

Mr. Bouchard: Well, as I understand the Court's ruling, the Court has admitted evidence beyond the date in 1944. Now, I want to show why he sold those properties in 1944.

Mr. Hurley: I am not objecting, your Honor. I am simply saying to Mr. Bouchard that you won't recognize on the record the properties which the petitioner is testifying to, because they are in the record as having been sold in the year 1944, and he simply testified as to the gross amount of sales and profit on properties sold and the addresses were not established. [44]

Q. (By Mr. Bouchard): Mr. Field, you have been testifying in answer to my last questions about properties that you sold in 1944, is that correct?

A. That is right.

(Testimony of Eddy D. Field.)

Q. What other properties were sold in 1944, and give us the reason why you sold them.

A. 3220 Glendale was bought in 1932. We had a half interest in the thing, if I am not mistaken, and sold it in June of 1944, twelve years later. The party that bought this property was renting the property at the time and he kept after us to sell it to him, because he owned the corner and wanted this to tie in with his corner. It happened to be an old home on a business lot next to a Standard Oil Station, and he was leasing it or owned the property and was handling Standard Oil gasoline, and he wanted to increase the width of the opening to his lot and he asked us if we would sell it. At no time was it offered for sale, however. 3827 Coolidge was bought in 1940 and sold in 1944. That was a little house that we had down there, and I don't know exactly, the dates are not on here exactly, Mr. Bouchard.

Q. Is there any of that property that was sold in 1944 that you recall the reason for disposing of it, any particular reason?

A. I believe this Garfield, the duplex I bought for my sister in 1943 instead of 1944, and we got rid of it when she [45] didn't get married. 801 Gramercy, unfortunately we owned a one-half interest there with another party, and it didn't work out. And now the 1173 Highland, I kept that from 1940 to 1944. I imagine the reason we sold that was to get better rental income therefrom, as far as I

(Testimony of Eddy D. Field.)

know. That was only a duplex. Normandie we sold exactly for the reason I told you. It was not the district, when we first bought it we bought on account of it being close to Eighth Street in there. It might be all right, but it didn't pan out, it was not—we would have trouble down there with a different type of tenants.

Q. Was there any of those properties in the years we are talking about, 1942, '43 and '44, that you bought for any purpose other than securing a rental income? A. Not one, no, sir.

Mr. Bouchard: I think that is all.

Mr. Hurley: May I ask one or two further questions?

Recross-Examination

Q. (By Mr. Hurley): Is that likewise true of the properties that you sold in 1943?

A. That is right.

Q. Is it true of the properties that you previously testified to, 626 West Seventh Street—626 West Seventeenth Street, which you acquired on June 23, 1943 and sold on June 23, 1943? [46]

A. Mr. Hurley, will you be more clear. I told you that we went to escrow in May or something like that.

Q. I understand that.

A. Now then, when the Commodore came up, we acquired that July 1st, so before July we were acquiring and getting the deal there, because the

(Testimony of Eddy D. Field.)

Commodore, which is the Commodore Apartments at 1830 North Park, this big Commodore Apartment house, was the kind we had always been looking for to invest in and to keep, and we sacrificed the rest of the property for that. This is one of them.

Q. When you bought the property at 424 Kings Road on February 24, 1943, and sold it on March 24th, did you mean to keep that property for rental purposes?

A. I did. I will tell you what happened there. I had made a prior commitment on that property—

Mr. Bouchard: Speak a little louder.

The Witness: I had made a prior commitment to purchase property on that particular deal and we went to escrow, and as I told you we went to escrow the 24th of February, I believe it must have been the date, and about that same time it came about that we had the opportunity to buy the Commodore after that.

Q. (By Mr. Hurley): When you bought the property at 526 Harper January 9, 1943, and sold it February 26, 1943, you also bought [47] that for rental purposes, is that right?

A. That is right.

Q. When you bought that property on June 6, and sold it on July 6, 1943, that was bought with the idea of renting it, is that right?

A. No, the deal I told you before, I was buying that for my mother-in-law and my sister-in-law.

(Testimony of Eddy D. Field.)

Q. Then you didn't intend to rent that?

A. No, that was for her.

Q. When you bought on February 20, 1942 the Point View property and sold it on March 23, 1943, you also had intended to rent that one?

A. That is right.

Q. And when you bought the Manning property on October 1, 1943 and sold it November 1, 1943, you also intended to rent that when you bought it, is that right? A. That is right.

Mr. Hurley: I have no further questions.

The Court: Mr. Field, as I understand, your objective has been to acquire a property with a large number of units.

The Witness: That is right.

The Court: And that was your objective a way back years ago, was it not?

The Witness: Yes, sir, back in — [48]

The Court: And these smaller properties, as I understand it, you bought because they were the only ones that you had money enough to buy.

The Witness: To handle.

The Court: To handle. So wasn't it your idea that as you could get the larger unit that you were going to dispose of those properties and buy a larger unit with the money?

The Witness: That was the purpose of it.

The Court: That was the purpose. So these properties were bought, as I understand your testimony, with the idea of selling and acquiring money to buy a larger unit.

(Testimony of Eddy D. Field.)

The Witness: That is right.

The Court: And you would have still a property that would help carry itself.

The Witness: Well, we bought—

The Court: With the rentals, as I understand your testimony, and you would if you could get a good price sell it.

The Witness: We would sell it, your Honor, to get another piece of property with a larger income. We kept crawling up and up as far as we could.

The Court: In other words, these smaller properties were bought with the idea of resale until you eventually had money enough to swing a big deal. [49]

The Witness: No.

The Court: Wasn't that the way you operated?

The Witness: No. We bought the properties first because—for instance, 330 La Brea, we bought it for a thousand dollars down, 1248 La Jolla, a thousand dollars down. We assumed heavy loans, then from the rental of the property we increased our equities and by the money that was made in the real estate brokerage business we increased the equities, and the ultimate idea was to buy if possible a large apartment house, and we have tried to keep the ones we had, we had a lot of little duplexes that we had to sell when we got the Cherokee because when we went to buy the Cherokee we didn't have the money to do it.

The Court: In other words, you were not saving your money and putting it in the bank, but your

(Testimony of Eddy D. Field.)

method of operation, as I understand it, was to keep your money employed in buying small places until you found the Cherokee?

The Witness: That is right, exactly.

The Court: And to sell this property so that you would have enough money to pay for what you wanted?

The Witness: That is correct.

The Court: Is that it?

The Witness: That is correct.

Mr. Hurley: May I ask a question there? [50]

Q. (By Mr. Hurley): What year was the Cherokee purchased? A. July 1, 1943.

Q. What date was any other large income producing property purchased? I mean the property that you have said you were eventually aiming at purchasing? Was Cherokee the only such purchase?

A. No, the Normandie, we purchased that—

Q. Where was that?

A. That was 739 South Normandie. We wanted to get large income properties under one management and have a better return with what we had to operate with.

Q. In other words, you started out on a shoe string and you had to buy and sell properties and make a profit on them until you could, so to speak, parlay your shoe string into a sufficient amount of money to purchase a large apartment unit, is that right? A. No, not actually.

Q. In what respect isn't that correct?

A. Mr. Hurley, I tried to tell you what the idea

(Testimony of Eddy D. Field.)

was. Remember the condition of the times we were in and what it was when we started our operation a way back. We would buy a house and put up fifteen hundred or a thousand dollars down and then sell it to get a duplex or a four unit and pay off the mortgage with the rental money. Our ultimate purpose was to get a big apartment building, and we figured when we got [51] the Cherokee that was it. Yesterday I had a man come to me out of the clear sky and offer me half a million dollars for it. I turned that down. I have turned down dozens of offers on it.

Q. But the point is that the money that you hoped to acquire the big unit with is the money that you received from the sale of those properties, isn't that correct?

A. No. In 1943 I made \$76,000.00 gross commission from the sale of real estate, I believe it was seventy-six or something like that gross commission. We sold one hundred and fifty-eight pieces of property and we collected five per cent or whatever we got on it. I took in around seventy thousand dollars.

Q. Then you didn't need any more capital in order to purchase an apartment unit if you were making out so well in your regular business.

A. I beg to differ with you. Our money was invested in equities instead of keeping it in the bank. I was in hopes of buying a large apartment and it was just out of the clear sky I happened to get that one.

(Testimony of Eddy D. Field.)

Q. Where did you expect to get the money to buy that large apartment?

A. When the opportune time came to buy?

Q. Yes.

A. Then we would sell those equities to get it. That [52] is what.

Mr. Hurley: No further questions.

Mr. Bouchard: That is all.

The Court: Step down. We will take a five minute recess.

(Witness excused.)

(Short recess taken.)

The Court: Proceed.

Mr. Bouchard: Now, if your Honor please, I think there is only one thing more. I understand you wanted to put in the tax returns for 1942 and 1943.

Mr. Hurley: Yes.

Mr. Bouchard: I believe we had a stipulation at the outset that the computation of profit is correct and is as shown on the tax returns, is that correct?

Mr. Hurley: Well, the gross entirely, not the capital gain.

Mr. Bouchard: Yes. Will you offer those returns, Mr. Hurley?

Mr. Hurley: All right. At this time I would like to offer in evidence as Respondent's Exhibit C the individual income tax return of Eddy B. Field for the year 1942, and as Exhibit D the individual income tax return of Eddy B. Field for the year 1943, and as Exhibit E the tax return of the peti-

tioner Helen Field for the year 1942 and as Respondent's [53] Exhibit F the tax return for the same taxpayer for the year 1943.

The Court: They may be received. What is the 1942, the forgiveness year?

Mr. Hurley: Yes, your Honor.

(The documents above referred to were received in evidence and marked Respondent's Exhibits C, D, E and F.)

Mr. Bouchard: Yes. With that Petitioner rests, your Honor.

Mr. Hurley: Respondent rests.

The Court: That closes the record as far as the taking of testimony is concerned. I suppose you will want to brief it?

Mr. Hurley: Yes.

The Court: We will have briefs under the rule, 45 days and 20 days for any reply. Mr. Clerk, suppose you give them the dates.

The Clerk: That will be December 3rd; reply date December 23rd.

The Court: Is that all?

Mr. Bouchard: Yes, your Honor.

The Court: That is all.

(Whereupon, at 11:45 o'clock a.m. Tuesday, October 19, 1948, the hearing in the above-entitled matter was closed.)

EXHIBIT C

INCOME TAX RETURN CALENDAR YEAR 1942

Eddy D. Field, 1019 South La Brea Avenue, Los Angeles, Calif.

Line 1

Revenues

Commissions Received	\$46,270.60	✓
Commissions on Rentals.....	2,417.32	✓
Commissions on Insurance.....	769.47	✓
Commissions Handling Property Management.....	2,215.12	✓
Commissions on Property Maintenance.....	215.10	✓
Discounts Earned	151.46	✓
 Total	 52,039.07	

Less—Commissions Paid other Brokers..\$451.75✓

Commissions Paid other

Rental Apt.	55.00	✓
Commissions Paid on loan		
Negotiation	10.00	✓
Misc. Costs on Property		
Maintenance	228.81	✓
 745.56		

Item 1

EXHIBIT C—(Continued)

INCOME TAX RETURN CALENDAR YEAR 1942

Eddy D. Field, 1019 South La Brea, Los Angeles, Calif.

Schedule B

Rents Received

Name of Building	Amount
1017 South La Brea.....	\$ 750.00
✓6282 Commodore Slodt	1,188.66
1639 North Gower	775.00✓
1032 Redondo	6,900.19
Baker Apts.	18,295.27✓
✓900 So. Kenmore	6,387.63
6016 Whitworth	3,424.16✓
✓2646 Vineyard	1,980.00✓
✓1315 Roxbury	843.75✓
✓1108 Longwood	110.00✓
✓1248 So. La Jolla.....	2,090.00✓
338 North La Brea.....	3,023.78✓
1195 La Brea (sign).....	35.00
La Brea & Edgewood (sign).....	30.00
✓1144 South Hi Point.....	720.00✓
✓1173 South Highland	1,440.00
Crestline Garage	302.50
301 North Croft	1,350.00✓
✓300 South Clark.....	1,505.00✓
 Total	 \$51,150.94✓

EXHIBIT C—(Continued)

INCOME TAX RETURN CALENDAR YEAR 1942

Eddy D. Field, 1019 South La Brea Avenue, Los Angeles, Calif.

Schedule B	Column 5 Line 1	Deductions Item 17
Salaries Managers	\$ 4,816.76V	\$ 3,163.88V
Office—General	159.80V	23,699.59V
Commissions	30.00 (<i>Out</i>)†	
Outside Rental Commissions		
Overriding Commission		
Payroll Taxes	136.50V	2,760.04V
Heat, Light, Water and Power	4,132.19V	1,031.36V
Stationery and Office Supplies	37.84V	114.74V
Janitor Supplies	84.97V	399.03V
Postage		45.10V
Telephone		202.00V
Repairs		119.75V
Rent		1,769.50V
Taxes, Real and Personal		207.19V
Licenses		740.00V
Insurance		382.04V
*Interest Paid	6,175.87V	58.00V
Advertising—Newspaper	46.80V	434.17V
Signs	1,442.34V	142.38V
	7,253.85V	3,050.21V
	6.72V	197.71V
	1.03V	

*See Schedule attached.

EXHIBIT C—(Continued)

	Column 5	Deductions
	Line 1	Item 17
Automobile		
Travel and Entertainment		
Membership—Dues		
Legal and Auditing		
Donations		
Realty Service		
Laundry		
Service Charges		
Air Raid Protective Expense		
Sales Promotion		
Gardening Supplies		
Total Expenses	<u><u>\$26,240.81</u></u>	<u><u></u></u>
†1297.72	304.05	†295.70
1002.02	290.91	743
	<u><u>13.14</u></u>	<u><u>13.14</u></u>
	<u><u>295.70</u></u>	<u><u>40</u></u>
		308.84

†The above calculations are in pencil at the bottom of return.

EXHIBIT C—(Continued)

INCOME TAX RETURN CALENDAR YEAR 1942

Eddy D. Field, 1019 South La Brea Avenue, Los Angeles, Calif.

Schedule B

Line 2

	Berryman Coolidge	3270 Glendale Blvd.
Rents Received	\$862.01	\$360.00
Expenses		
Interest	316.61	73.70
Taxes	176.33	133.81
Repairs		
Plumbing	4.00	
Painting & Wallpaper.....	170.50	
Carpentry	27.50	
Miscellaneous	56.05	
Repair Venetian Blind.....	9.60	
Insurance	6.30	
Total Expenses	766.89	207.51
Net Gain	95.12	152.49
Eddy D. Field—Taxpayer, has a one-half interest only	\$ 47.56	\$ 76.25
	<hr/>	<hr/>
		\$123.81
	<hr/>	<hr/>

EXHIBIT C—(Continued)

INCOME TAX RETURN CALENDAR YEAR 1942

Eddy D. Field, 1019 South La Brea Avenue, Los Angeles, Calif.

Interest Paid

Schedule of Explanation for Expense Schedule

Name	Amount	*Adm. Ins.
Chas. W. Baker.....	\$1,289.01	
Security 1st National (Carthay).....	242.21	
Security 1st National (Beverly).....	45.56	
Bank of America (7th & Spring).....	301.94	
Bank of America (7th & Spring).....	135.03	
Bank of America (West Adams).....	829.23	
Provident Mutual Life Insurance.....	40.50	
Marion C. Brown.....	201.24	
Western Service Corporation.....	414.75	
H. F. Whittle Investment Co.....	234.82	
John Hancock Mutual Like.....	1,543.59	
Prudential Insurance Co.....	445.31	
Mary E. Brown.....	69.05	
Wm. B. Himrod.....	13.76	
Gussie A. Booker.....	587.26	
Pacific Mutual Life Insurance.....	664.64	
Mutual Life Insurance Company.....	195.95	
 Total.....	 \$7,253.85	 142.38*

*This column is written in pencil.

1942 INCOME TAX RETURN

Eddy D. Field, 1019 So. La Brea Ave., Los Angeles, Calif.

Commissioner of Internal Rev.

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Schedule J

KInd	Date Acquired	Cost	Depreciation Prior	Remaining Cost	Life	Remaining Life	Depreciation 1942
Crestline Garage	2/ 1/40	1,500.00	143.75	1,356.25	20	18	75.00
1172 So. Highland—Frame stucco	1/ 2/41	7,493.35	299.75	7,193.62	25	24	299.73
1030 Redondo (bldg.)—Frame stucco	6/15/41	15,078.56	216.18	14,852.38	33 1/3	32 1/3	452.36
1032 Redondo (Furn. & Refrig.)	6/15/41	6,359.87	317.99	6,041.88	10	9	635.98
900 So. Kenmore—Frame stucco	9/ 6/41	22,522.91?	168.92	22,353.99	33 1/3	32 1/3	675.68
300 So. Clark—Frame stucco	1/ 1/42	7,500.00?	.....	7,500.00	✓	25	24
341 No. Croft—Frame stucco	1/ 1/42	5,250.00	.....	5,250.00	20	19	262.50
1144 So. Hi Point—Frame stucco	1/ 1/42	4,000.00	.....	4,000.00	20	19	200.00
338 1/2 No. LaBrea—Frame stucco	1/ 1/42	11,000.00	.....	11,000.00	20	19	550.00
1248 So. La Jolla—Frame stucco	1/ 1/42	11,750.00	.....	11,750.00	25	24	470.00
2646 Vineyard—Frame stucco	1/ 1/42	8,500.00	.....	8,500.00	20	19	425.00
6016 Whitworth—Frame stucco	1/ 1/42	14,500.00	.....	14,500.00	20	19	725.00
Baker Apts.—Brick frame stucco	1/ 1/42	29,000.00	.....	29,000.00	25	24	1,160.00
Baker Apts. (Furn. and linens)	1/ 1/42	6,000.00	.....	6,000.00	6	5	1,000.00
3826 Berryman (1/2 interest)	1940	3,150.00	1/2	52.50	3,097.50	30	29
3827 Coolidge (1/2 interest)	1940	3,150.00	1/2	52.50	3,097.50	30	29
3270 Glendale (1/2 interest)	1936	1,500.00	1/2	187.50	1,125.00	20	14
6282 Commodore Sloat—Frame stucco	8/29/42	13,750.35	.....	13,750.00	25	15 2 mo.	91.66
6282 Commodore Sloat—Furniture	8/29/42	3,362.45	.....	3,362.45	6	6 2 mo.	93.40
1019 So. La Brea Ave.—R. E. Office	7/ 1/41	6,744.42	337.22	6,407.20	10	9	674.44
R. E. Office Furniture	7/ 1/41	2,757.27	137.86	2,619.41	10	9	275.72
1019 So. La Brea	2/ 1/39	2,768.07	2,018.39	749.68	4	...	692.02
1939 Cadillac for Business	2/ 1/39	2,768.07	2,018.39	749.68	4	...	692.02
							\$9,141.59

Total Depreciation
M. C.

Notation 5686.93 in righthand margin initialed M. C.

EXHIBIT D**INCOME AND VICTORY TAX RETURN REQUIREMENTS**

An income and victory tax return must be filed with the United States Collector of Internal Revenue for the district in which you live, on or before March 15, 1944, if you are a single person or a married person not living with husband or wife, and if the total payments reported on this form when added to your income from all other sources amount to \$500 or more.

If you are a married person living with husband or wife, a return must be filed if the total payments reported on this form when added to your income from all other sources amount to \$624 or more, or if the combined total income of husband and wife amounts to \$1,200 or more.

An Income and Victory Tax Return Form may be obtained from the collector of internal revenue for your district.

Optional Form 1040A may be filed if your gross income is not more than \$3,000 and is derived only from salary, wages, dividends, interest, and annuities; otherwise form 1040 should be filed.

EXHIBIT D—(Continued)

INCOME TAX RETURN CALENDAR YEAR 1943

Eddy D. Field, 1019 S. La Brea Ave., Los Angeles, (35) Calif.

Item 1 Page 1

Revenues

Commissions Received Real Estate Sales.....	67,131.13	✓
Commissions Received on Rentals.....	672.08	✓
Commissions Received on Insurance Sales.....	1,655.51	✓
Commissions Received on Property Management.....	1,540.75	✓
Commissions Received on Property Management Extras..	280.74	✓
Discounts Earned on Purchases.....	361.04	✓
Miscellaneous Income	536.58	✓

	72,177.83	✓
Less—Commissions Paid Other Brokers	551.25	✓
Commissions on Loan Negotiations.....	18.00	✓
Misc. Expenses on Commissions Earned....	492.67	✓

Item 1	71,115.91	✓

EXHIBIT D—(Continued)

INSTRUCTIONS

(References are to the Internal Revenue Code)

GAINS AND LOSSES FROM SALES OR EXCHANGES OF CAPITAL ASSETS AND OTHER PROPERTY.—Report details in schedule on other side.

“Capital assets” defined.—The term “capital assets” means property held by the taxpayer (whether or not connected with his trade or business), but not stock in trade or other property of a kind which would properly be included in his inventory if on hand at the close of the taxable year, or property held by the taxpayer primarily for sale to customers in the ordinary course of his trade or business, or property used in the trade or business of a character which is subject to the allowance for depreciation provided in section 23 (1), or an obligation of the United States or any of its possessions, or of a State or Territory, or any political subdivision thereof, or of the District of Columbia, issued on or after March 1, 1941, on a discount basis and payable without interest at a fixed maturity date not exceeding one year from the date of issue, or real property used in the trade or business of the taxpayer.

Section 165 (b) provides that if an employee receives the total distribution that he is entitled to under an employees’ trust plan that meets the requirements of section 165 (a) in one taxable year on account of his separation from service, the amount of such distribution to the extent exceeding the amounts contributed by the employee shall be considered a gain from the sale or exchange of a capital asset held for more than 6 months.

A capital gain dividend, as defined in section 362 (relating to tax on regulated investment companies), shall be treated by the shareholder as gains from the sale or exchange of capital assets held for more than 6 months.

For special treatment of gains and losses from involuntary conversion, and from sale or exchange of certain property used in the trade or business, see section 117 (j).

Description of property.—State following facts: (a) For real estate, location and description of land and improvements; (b) for bonds or other evidences of indebtedness, name of issuing corporation, particular issue, denomination and amount; and (c) for stocks, name of corporation, class of stock, number of shares, and capital changes affecting basis (including nontaxable distributions).

Basis.—In determining GAIN in case of property acquired before March 1, 1913, use the cost or the fair market value as of March 1, 1913, adjusted as provided in section 113 (b), which-

EXHIBIT D—(Continued)

ever is greater, but in determining LOSS use cost so adjusted. If the property was acquired after February 28, 1913, use cost, except as otherwise provided in section 113.

Losses on securities becoming worthless.—If (1) shares of stock become worthless during the year or (2) corporate securities with interest coupons or in registered form become worthless during the year, and are capital assets, the loss therefrom shall be considered as from the sale or exchange of capital assets as of the last day of such taxable year.

Nonbusiness debts.—If a debt, other than a debt evidenced by a corporate security with interest coupons or in registered form and other than a debt the loss from the worthlessness of which is incurred in the trade or business, becomes totally worthless within the taxable year, the loss resulting therefrom shall be considered a loss from the sale or exchange, during the taxable year, of a capital asset held for not more than 6 months. Enter such loss in column 10 of schedule of short-term capital gains and losses on other side.

Classification of capital gains and losses.—The phrase "short-term" applies to gains and losses from the sale or exchange of capital assets held for 6 months or less; the phrase "long-term" to capital assets held for more than 6 months.

LIMITATION ON CAPITAL LOSSES.—Losses from sales or exchanges of capital assets shall be allowed only to the extent of the gains from such sales or exchanges, plus the net income (computed without regard to capital gains and losses) or \$1,000, whichever is smaller. However, a net capital loss as defined in section 117 (a) (11) for a taxable year beginning in 1942 may be carried over to the taxable year 1943 and treated as a short-term capital loss. The amount of the net short-term capital loss for a taxable year beginning in 1941 may not be included in computing the net capital loss for a taxable year beginning in 1942 which can be carried forward to a taxable year beginning in 1943.

ALTERNATIVE TAX.—If the net long-term capital gain exceeds the net short-term capital loss, an alternative tax may be imposed in lieu of the normal tax and surtax imposed on net income. (See Computation of Alternative Tax, on other side.)

"Wash sales" losses.—Loss from sale or other disposition of stocks or securities cannot be deducted unless sustained in connection with the taxpayer's trade or business, if, within 30 days before or after the date of sale or other disposition, the taxpayer has acquired (by purchase or by an exchange upon which the entire amount of gain or loss was recognized by law), or has entered into a contract or option to acquire, substantially identical stock or securities.

EXHIBIT D—(Continued)

Losses in transactions between certain persons.—No deduction is allowable for losses from sales or exchanges of property directly or indirectly between (a) members of a family, (b) a corporation and an individual owning more than 50 per cent of its stock (liquidations excepted), (c) a grantor and fiduciary of any trust, or (d) a fiduciary and a beneficiary of the same trust.

EXHIBIT D—(Continued)

INCOME TAX RETURN CALENDAR YEAR 1943

Eddy D. Field, 1019 S. La Brea Ave., Los Angeles, (35) Calif.

Schedule C 1
Line 1 Column 2

Rents Received

Address of Property	Amount
859 South Wooster.....	1,495.11
631 East Garfield (Glendale, Calif.).....	107.00
1830 North Cherokee (Commodore Apartments).....	21,178.75
Crestline Garage	291.25
1639 North Gower✓	470.00
1173 Highland Avenue	1,340.00
338 North La Brea✓	3,300.57
801 South Gramercy Drive.....	15,031.40
6016 Whitworth	3,880.00
1032 South Redondo Blvd.....	7,949.44
845 West Olympic (Baker Apartments)✓	18,328.24
1019 South La Brea.....	300.00
4931 Venice Blvd.....	476.00
6282 Commodore Sloat Dr.....	2,004.86
2203 Beechwood	4,301.03
300 South Clark Drive	1,055.50
341 North Croft	562.50
1144 South Hi Point.....	448.00
900 North Kenmore.....	2,777.75
1248 La Jolla.....	799.25
2646 Vineyard	1,078.50
6439 Orange	600.57
Vacant Lot	24.00
 Total Rents Received.....	 87,799.72✓

EXHIBIT D—(Continued)

INCOME TAX RETURN CALENDAR YEAR 1943

Eddy D. Field, 1019 S. La Brea, Los Angeles, (35), Calif.

	Schedule C 1 Column 5 Line 1	Deductions Item 16
Salaries—Mgrs. and Ass't. Mgrs.....	11,504.74✓	
Office		3,860.74✓
Commissions Paid	36.75✓	33,689.97✓
Overriding Commissions		4,788.40✓
Pay Roll Taxes	176.63✓	1,084.74✓
Outside Rental Commissions Paid	3.75✓	
Heat, Light, Power	8,069.98✓	118.80✓
Stationery and Office Supplies.....	22.47✓	980.04✓
Janitor Supplies	322.05✓	75.90✓
Postage		290.64✓
Telephone	526.76✓	2,002.53✓
Repairs		624.26✓
Rents Paid		780.00✓
Taxes (L. A. County Prop.).....	9,613.18✓ ok	388.93✓
Sales Tax		23.91✓
Licenses	71.00✓	25.00✓
Insurance	2,660.88✓	980.98✓
Interest Paid (See Schedule).....	11,121.18✓	437.06✓
Advertising— Newspapers	1.74✓	3,691.04✓
Signs		1.24✓
Auto Expense		569.85✓
Travel and Entertainment on Deals...		210.14✓
Membership Dues, Subscriptions		145.35✓
Legal and Auditing	628.15✓	315.00✓
Business Donations		454.84✓
Realty Service		202.00✓
Laundry	1,776.38✓	
Service Charges	1,693.32✓	265.88✓
Sales Promotion		472.53✓
Gardening Supplies	156.09✓	13.94✓
Supplies for Apartment Management..	106.67✓	
	<hr/> 48,491.72	<hr/> 56,491.71



EXHIBIT D—(Continued)

INCOME TAX RETURN CALENDAR YEAR 1943
Eddy D. Field, 1019 South La Brea, Los Angeles, (35) Calif.

Explanation of Depreciation

Description	Date Acquired	Cost of Building	Deprec. Prior Period	Remaining Cost	Life	Remaining Life	Deprec. 1943
Crestline Garage	2/ 1/40	1,500.00	218.75	1,281.25	20 yrs.	18 yrs.	75.00
1173 South Highland.....	1/ 2/41	7,493.35	599.46	6,893.89	25 yrs.	24 yrs.	299.73
1032 S. Redondo (Bldg.).....	6/15/41	15,078.56	668.54	14,410.02	33-1/3 yrs.	32-1/3 yrs.	452.36
1032 S. Redondo (Furn. & Equip.).....	6/15/41	6,359.87	953.97	5,405.90	10 yrs.	9-1/2 yrs.	635.98
338½ N. La Brea.....	1/ 1/42	11,000.00/	550.00	10,450.00	20 yrs.	19 yrs.	550.00
6016 Whitworth	1/ 1/42	14,500.00/	725.00	13,775.00	20 yrs.	19 yrs.	725.00
Baker Apartments (Bldg.).....	1/ 1/42	29,257.50/	1,160.00	28,097.50	25 yrs.	24 yrs.	1,170.30
Baker Apts. (Furn. & Linens).....	1/ 1/42	6,000.00/	1,000.00	5,000.00	6 yrs.	5 yrs.	1,000.00
739 S. Normandie (Bldg.).....	2/ 1/43	41,000.00	.....	41,000.00	25 yrs.	25 yrs.	1,503.33 (11 mos.)
739 S. Normandie (Furn.).....	2/ 1/43	7,500.00	.....	7,500.00	6-2/3 yrs.	6-2/3 yrs.	1,031.25 (11 mos.)
1830 N. Cherokee (Bldg.).....	7/ 1/43/	142,243.82	.....	142,243.82	25 yrs.	25 yrs.	2,844.88 (6 mos.)
1830 N. Cherokee (Furn. & Equip.).....	7/ 1/43/	21,030.78	.....	21,030.78	6-2/3 yrs.	6-2/3 yrs.	1,577.31 (6 mos.)
4921 Venice Blvd.....	8/24/43	6,431.11	.....	6,431.11	20 yrs.	20 yrs.	116.13 (4-1/3 mos.)
559 Wooster	7/15/43	17,212.60	.....	17,212.60	25 yrs.	25 yrs.	315.56 (5-1/2 mos.)
631 East Garfield (Glendale).....	11/19/43	4,963.09	.....	4,963.09	20 yrs.	20 yrs.	31.02 (1-1/2 mos.)
1019 S. La Brea, Real Estate Office.....	7/ 1/41]	6,744.42/	1,011.66	5,732.76	10 yrs.	9 yrs.	674.44✓
1019 S. La Brea (Furn. & Fixtures).....	7/ 1/41]	2,757.27	413.58	2,343.69	10 yrs.	9 yrs.	275.73✓
1939 Cadillac Sedan (Bus. Car).....	2/ 1/39	2,768.07	2,710.41	57.66	4 yrs.	1 mo.	57.66✓
1942 Ford Conpe (Bus. Car).....	6/30/43	1,741.91	.....	1,741.91	4 yrs.	4 yrs.	217.74✓
3826 Berryman (½ Interest).....	1940 (½)3,150.00	105.00	3,045.00	30 yrs.	28 yrs.	52.50 (1/2) ✓	
3827 Coolidge (½ Interest).....	1940 (½)3,150.00	105.00	3,045.00	30 yrs.	28 yrs.	52.50 (1/2) ✓	
3270 Glendale (½ Interest).....	1936 (½)1,500.00	225.00	1,275.00	20 yrs.	13 yrs.	37.50 (1/2) ✓	
801 S. Gramercy (Bldg.) (½ Interest).....	10/10/43	65,588.78	.....	65,588.78	50 yrs.	50 yrs.	291.44 (1/2) ✓
801 S. Gramercy (Furn.) (½ Interest).....	10/10/43	7,915.88	.....	7,915.88	10 yrs.	10 yrs.	175.90 (1/2) ✓
744 North Ogden (½ Interest).....	11/26/43 (½)2,003.69	.....	2,003.69	20 yrs.	20 yrs.	8.35 (1/2) ✓	
					TOTAL.....	14,171.61	

Notation—Figs. 4244.54 and illegible initials appear on right margin of sheet.

EXHIBIT D—(Continued)

INCOME TAX RETURN CALENDAR YEAR 1943

Eddy D. Field, 1019 S. La Brea, Los Angeles, (35) Calif.

Schedule C 1

Line 2

Revenues and Expenses on Properties Owning $\frac{1}{2}$ Interest Only

	Berryman Coolidge	3270 Glendale Blvd.	801 South Gramercy	Totals
Rents Received.....	912.00	360.00	5,660.18	
Expenses:				
Wages			1,256.92	
Heat, Light and Water..			589.02	
Stationery			1.37	
Janitor Supplies			20.80	
Postage			1.50	
Telephone			19.01	
Laundry			330.74	
Rent of Parking Lot			20.00	
Service Charges			90.44	
Interest	288.68	149.91	1,377.37	
Taxes	167.06	108.93		
Insurance	6.30	41.70		
Miscellaneous		8.92		
Repairs (Building)	15.66		79.63	
Equipment			222.14	
Total Expenses.....	<u>477.70</u>	<u>309.46</u>	<u>4,008.94</u>	
Net Gain	<u>434.30</u>	<u>50.54</u>	<u>1,651.24</u>	<u>2,136.08</u>
One-half Interest in Gain Reported Schedule C 1, Line 2.....				<u>1,068.04</u>

Note: Depreciation taken in Depreciation Schedule at one-half, and charged against revenues all properties.

EXHIBIT D—(Continued)

INCOME TAX RETURN CALENDAR YEAR 1943

Eddy D. Field, 1019 S. La Brea, Los Angeles, (35) Calif.

Schedule of Interest Paid

To Whom	Property	Mortgage Int.	Admin. Interest
Marvin E. Brown	1639 North Gower	121.00	
Syndicate Mortgage	739 South Normandie	1,542.66	
Western Service Corp'n	1173 South Highland	418.79	
Prudential Ins. Co.	338 North La Brea	450.57	
Pacific Mutual Life Ins.	1032 South Redondo	613.02	
Belmont Co.	6016 Whitworth	634.99	
Belmont Co.	2203 Beechwood	753.67	
Ralph Sutro	859 South Wooster	340.76	
Fred W. Heatherly	Lot #144, Tr. 7170	115.50	
Charles Baker	845 West Olympic	764.04	
M. E. and E. E. Ringemann	1830 North Cherokee	3,404.49	
Security 1st Nat'l. Bank	300 South Clark	144.83	
Security 1st Nat'l. Bank	300 South Clark	22.22	
Provident Mutual	6282 Commodore Sloat Dr.	250.49	
Provident Mutual	6282 Commodore Sloat Dr.	30.43	
Bank of America	341 North Croft	83.84	
Bank of America	338 North La Brea	70.18	
Bank of America	2646 Vineyard	290.58	

EXHIBIT D—(Continued)

To Whom	Property	Mortgage Int.	Admin. Interest
H. F. Whittle Inv. Co.	.1144 Hi Point.....	160.53	
John Hancock Mutual Life	.900 South Kenmore.....	533.35	
Gussie Booker	.1248 La Jolla.....	215.58	
Clifford K. Steele	.Palisades Lot	2.73	
Mortgage Guarantee	.1248 S. La Jolla.....	141.46	
Mortgage Guarantee	.744 N. Ogden.....	6.88	
Joe Endemiller	.739 South Normandie.....	75.00	
Joe Endemiller	.739 South Normandie.....		
Mutual Life Ins. Co.	.....	
Martha Sinclair	.....	
Collector of Internal Revenue	.....	
	Total Interest Paid.....	11,121.18	
			<u><u>437.06</u></u>

EXHIBIT E

INCOME TAX RETURN CALENDAR YEAR 1942

Helen Field, 1019 South La Brea Avenue, Los Angeles, Calif.

Line 1

Revenues

Commissions Received	\$46,270.60
Commissions on Rentals.....	2,417.32
Commissions on Insurance.....	769.47
Commissions Handling Property Management.....	2,215.12
Commissions on Property Maintenance.....	215.10
Discounts Earned	151.46
Total.....	52,039.07
Less—Commissions Paid other Brokers.....	\$451.75
Commissions Paid other Rental Apt.	55.00
Commissions Paid on Loan	
Negotiation	10.00
Misc. Costs on Property	
Maintenance	228.81
	745.56
Item 1.....	<u>\$51,293.51</u>

EXHIBIT E—(Continued)

INCOME TAX RETURN CALENDAR YEAR 1942

Helen Field, 1019 South La Brea, Los Angeles, Calif.

Schedule B

Rents Received

Name of Building	Amount
1017 South La Brea.....	\$ 750.00
6282 Commodore Slodt.....	1,188.66
1639 North Gower	775.00
1032 Rendondo	6,900.19
Baker Apts.	18,295.27
900 South Kenmore.....	6,387.63
6016 Whitworth	3,424.16
2646 Vineyard	1,980.00
1315 Roxbury	843.75
1108 Longwood	110.00
1248 So. La Jolla.....	2,090.00
338 North La Brea.....	3,023.78
1195 La Brea (sign).....	35.00
La Brea & Edgewood (sign).....	30.00
1144 South Hi Point.....	720.00
1173 South Highland	1,440.00
Crestline Garage	302.50
301 North Croft	1,350.00
300 South Clark	1,505.00
 Total.....	 \$51,150.94

EXHIBIT E—(Continued)

INCOME TAX RETURN CALENDAR YEAR 1942

Helen Field, 1019 South La Brea Avenue, Los Angeles, Calif.

Schedule B

*See Schedule attached.

EXHIBIT E—(Continued)

INCOME RETURN CALENDAR YEAR 1942

Helen Field, 1019 South La Brea Avenue, Los Angeles, Calif.

Schedule B

Line 2

	Berryman Coolidge	3270 Glendale Blvd.
Rents Received	\$862.01	\$360.00
Expenses		
Interest	316.61	73.70
Taxes	176.33	133.81
Repairs		
Plumbing	4.00	
Painting & Wallpaper.....	170.50	
Carpentry	27.50	
Miscellaneous	56.05	
Repair Venetian Blind.....	9.60	
Insurance	6.30	
Total Expenses	766.89	207.51
Net Gain	95.12	152.49
Eddy D. Field—Taxpayer, has a one-half interest only.....	\$ 47.56	\$ 76.25
	=====	=====
		\$123.81
	=====	=====

EXHIBIT E—(Continued)

INCOME TAX RETURN CALENDAR YEAR 1942

Heler Field, 1019 Scuth La Brea Avenue, Los Angeles, Calif.

Interest Paid

Schedule of Explanation for Expense Schedule

Name	Amount
Chas. W. Baker	\$1,289.01
Security 1st National (Carthay).....	242.21
Security 1st National (Beverly).....	45.56
Bank of America (7th & Spring).....	301.94
Bank of America (7th & Spring).....	135.03
Bank of America (West Adams).....	829.23
Provident Mutual Life Insurance.....	40.50
Marion C. Brown.....	201.24
Western Service Corporation.....	414.75
H. F. Whittle Investment Co.....	234.82
John Hancock Mutual Life.....	1,543.59
Prudential Insurance Co.....	445.31
Mary E. Brown.....	69.05
Wm. B. Himrod.....	13.76
Gussie A. Booker	587.26
Pacific Mutual Life Insurance.....	664.64
Mutual Life Insurance Company.....	195.95
 Total.....	 \$7,253.85

EXHIBIT E—(Continued)

1942 INCOME TAX RETURN

Eddy D. Field, 1019 So. La Brea Ave., Los Angeles, Calif.

Schedule J

Kind	Date Acquired	Cost	Depreciation Prior	Remaining Cost	Life	Remaining Life	Depreciation 1942
Crestline Garage.....	2/ 1/40	1,500.00	143.75	1,356.25	20	18	75.00
1173 So. Highland—Frame stucco.....	1/ 2/41	7,493.35	299.73	7,193.62	25	24	299.73
1032 Redondo (bldg.)—Frame stucco.....	6/15/41	15,078.56	216.18	14,852.38	33 1/3	32 1/3	452.36
1032 Redondo (Furn. & Refriger.).....	6/15/41	6,359.87	317.99	6,041.88	10	9	635.98
900 So. Kenmore—Frame stucco.....	9/ 6/41	22,522.91	168.92	22,353.99	33 1/3	32 1/3	675.68
300 So. Clark—Frame stucco.....	1/ 1/42	7,500.00	.....	7,500.00	25	24	300.00
341 No. Croft—Frame stucco.....	1/ 1/42	5,250.00	.....	5,250.00	20	19	262.50
1144 So. HiPoint—Frame stucco.....	1/ 1/42	4,000.00	.....	4,000.00	20	19	200.00
338 1/2 No. LaBrea—Frame stucco.....	1/ 1/42	11,000.00	.....	11,000.00	20	19	550.00
1248 So. LaJolla—Frame stucco.....	1/ 1/42	11,750.00	.....	11,750.00	25	24	470.00
2646 Vineyard—Frame stucco.....	1/ 1/42	8,500.00	.....	8,500.00	20	19	425.00
6016 Whitworth—Frame stucco.....	1/ 1/42	14,500.00	.....	14,500.00	20	19	725.00
Baker Apts.—Frame stucco.....	1/ 1/42	29,000.00	.....	29,000.00	25	24	1,160.00
Baker Apts. (Furn. and linens).....	1/ 1/42	6,000.00	.....	6,000.00	6	5	1,000.00
3826 Berryman (1/2 interest).....	1940	3,150.00 1/2	52.50	3,097.50	30	29	52.50 1/2
3827 Coolidge (1/2 interest).....	1940	3,150.00 1/2	52.50	3,097.50	30	29	52.50 1/2
3270 Glendale (1/2 interest).....	1936	1,500.00 1/2	187.50	1,125.00	20	14	37.50 1/2
6282 Commodore Sloat—frame stucco.....	8/29/42	13,750.35	.....	13,750.35	25	15 2 mo.	91.66
6282 Commodore Sloat—Furniture.....	8/29/42	3,362.45	.....	3,362.45	6	6 2 mo.	93.40
1019 So. La Brea Ave.—R. E. Office..	7/ 1/41	6,744.42	337.22	6,407.20	10	9	674.44
R. E. Office Furniture							
1019 So. La Brea Ave.....	7/ 1/41	2,757.27	137.86	2,619.41	10	9	275.72
1930 C. oil, 2000 for R. incense.....	2/ 1/39	2,768.07	2,018.39	749.66	4		692.02

EXHIBIT F—(Continued)

INSTRUCTIONS

(References are to the Internal Revenue Code)

GAINS AND LOSSES FROM SALES OR EXCHANGES OF CAPITAL ASSETS AND OTHER PROPERTY.—Report details in schedule on other side.

“Capital assets” defined.—The term “capital assets” means property held by the taxpayer (whether or not connected with his trade or business), but not stock in trade or other property of a kind which would properly be included in his inventory if on hand at the close of the taxable year, or property held by the taxpayer primarily for sale to customers in the ordinary course of his trade or business, or property used in the trade or business of a character which is subject to the allowance for depreciation provided in section 23 (1), or an obligation of the United States or any of its possessions, or of a State or Territory, or any political subdivision thereof, or of the District of Columbia, issued on or after March 1, 1941, on a discount basis and payable without interest at a fixed maturity date not exceeding one year from the date of issue, or real property used in the trade or business of the taxpayer.

Section 165 (b) provides that if an employee receives the total distribution that he is entitled to under an employees’ trust plan that meets the requirements of section 165 (a) in one taxable year on account of his separation from service, the amount of such distribution to the extent exceeding the amounts contributed by the employee shall be considered a gain from the sale or exchange of a capital asset held for more than 6 months.

A capital gain dividend, as defined in section 362 (relating to tax on regulated investment companies), shall be treated by the shareholder as gains from the sale or exchange of capital assets held for more than 6 months.

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Description of property.—State following facts: (a) For real estate, location and description of land and improvements; (b) for bonds or other evidences of indebtedness, name of issuing corporation, particular issue, denomination and amount; and (c) for stocks, name of corporation, class of stock, number of shares, and capital changes affecting basis (including nontaxable distributions).

Basis.—In determining GAIN in case of property acquired before March 1, 1913, use the cost or the fair market value as of March 1, 1913, adjusted as provided in section 113 (b), which-

EXHIBIT F—(Continued)

ever is greater, but in determining LOSS use cost so adjusted. If the property was acquired after February 28, 1913, use cost, except as otherwise provided in section 113.

Losses on securities becoming worthless.—If (1) shares of stock become worthless during the year or (2) corporate securities with interest coupons or in registered form become worthless during the year, and are capital assets, the loss therefrom shall be considered as from the sale or exchange of capital assets as of the last day of such taxable year.

Nonbusiness debts.—If a debt, other than a debt evidenced by a corporate security with interest coupons or in registered form and other than a debt the loss from the worthlessness of which is incurred in the trade or business, becomes totally worthless within the taxable year, the loss resulting therefrom shall be considered a loss from the sale or exchange, during the taxable year, of a capital asset held for not more than 6 months. Enter such loss in column 10 of schedule of short-term capital gains and losses on other side.

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LIMITATION ON CAPITAL LOSSES.—Losses from sales or exchanges of capital assets shall be allowed only to the extent of the gains from such sales or exchanges, plus the net income (computed without regard to capital gains and losses) or \$1,000, whichever is smaller. However, a net capital loss as defined in section 117 (a) (11) for a taxable year beginning in 1942 may be carried over to the taxable year 1943 and treated as a short-term capital loss. The amount of the net short-term capital loss for a taxable year beginning in 1941 may not be included in computing the net capital loss for a taxable year beginning in 1942 which can be carried forward to a taxable year beginning in 1943.

ALTERNATIVE TAX.—If the net long-term capital gain exceeds the net short-term capital loss, an alternative tax may be imposed in lieu of the normal tax and surtax imposed on net income. (See Computation of Alternative Tax, on other side.)

"Wash sales" losses.—Loss from sale or other disposition of stocks or securities cannot be deducted unless sustained in connection with the taxpayer's trade or business, if, within 30 days before or after the date of sale or other disposition, the taxpayer has acquired (by purchase or by an exchange upon which the

EXHIBIT F—(Continued)

entire amount of gain or loss was recognized by law), or has entered into a contract or option to acquire, substantially identical stock or securities.

Losses in transactions between certain persons.—No deduction is allowable for losses from sales or exchanges of property directly or indirectly between (a) members of a family, (b) a corporation and an individual owning more than 50 per cent of its stock (liquidations excepted), (c) a grantor and fiduciary of any trust, or (d) a fiduciary and a beneficiary of the same trust.



EXHIBIT F—(Continued)

INCOME TAX RETURN CALENDAR YEAR 1943

Helen Field, 1019 S. La Brea Ave., Los Angeles, (35) Calif.

Schedule C 1
Line 1 Column 2

Rents Received

Address of Property	Amount
859 South Wooster	1,495.11
631 East Garfield (Glendale, Calif.).....	107.00
1830 North Cherokee (Commodore Apartments).....	21,178.75
Crestline Garage	291.25
1639 North Gower	470.00
1173 Highland Avenue.....	1,340.00
338 North La Brea.....	3,300.57
801 South Gramercy Drive.....	15,031.40
6016 Whitworth	3,880.00
1032 South Redondo Blvd.....	7,949.44
845 West Olympic (Baker Apartments).....	18,328.24
1019 South La Brea.....	300.00
4931 Venice Blvd.....	476.00
6282 Commodore Sloat Dr.....	2,004.86
2203 Beechwood	4,301.03
300 South Clark Drive.....	1,055.50
341 North Croft.....	562.50
1144 South Hi Point.....	448.00
900 North Kenmore.....	2,777.75
1248 La Jolla.....	799.25
2646 Vineyard	1,078.50
6439 Orange	600.57
Vacant Lot	24.00
 Total Rents Received.....	 87,799.72

EXHIBIT F—(Continued)

INCOME TAX RETURN CALENDAR YEAR 1943

Helen Field, 1019 S. La Brea, Los Angeles, (35) Calif.

	Schedule C Column 5 Line 1	Deductions Item 16
Salaries—Mgrs. and Ass't. Mgrs.....	11,504.74	
Office		3,860.74
Commissions Paid	36.75	33,689.97
Overriding Commissions		4,788.40
Pay Roll Taxes	176.63	1,084.74
Outside Rental Commissions Paid.....	3.75	
Heat, Light, Power.....	8,069.98	118.80
Stationery and Office Supplies.....	22.47	980.04
Janitor Supplies	322.05	75.90
Postage		290.64
Telephone	526.76	2,002.53
Repairs		624.26
Rents Paid		780.00
Taxes (L. A. County Prop.).....	9,613.18	388.93
Sales Tax		23.91
Licenses	71.00	25.00
Insurance	2,660.88	980.98
Interest Paid (See Schedule).....	11,121.18	437.06
Advertising—Newspapers	1.74	3,691.04
Signs		1.24
Auto Expense		569.85
Travel and Entertainment on Deals.....		210.14
Membership Dues, Subscriptions		145.35
Legal and Auditing.....	628.15	315.00
Business Donations		454.84
Realty Service		202.00
Laundry	1,776.38	
Service Charges	1,693.32	265.88
Sales Promotion		472.53
Gardening Supplies	156.09	13.94
Supplies for Apartment Management.....	106.67	
	48,491.72	56,491.71
	<u><u> </u></u>	<u><u> </u></u>

EXHIBIT F—(Continued)

INCOME TAX RETURN CALENDAR YEAR 1943

Helen Field, 1019 S. La Brea, Los Angeles, (35) Calif.

Schedule C 1

Line 2

Revenues and Expenses on Properties Owning $\frac{1}{2}$ Interest Only

	Berryman Coolidge	3270 Glendale Blvd.	801 South Gramercy	Totals
Rents Received	912.00	360.00	5,660.18	
<hr/>				
Expenses:				
Wages			1,256.92	
Heat, Light and				
Water			589.02	
Stationery			1.37	
Janitor Supplies			20.80	
Postage			1.50	
Telephone			19.01	
Laundry			330.74	
Rent of Parking				
Lot			20.00	
Service Charges			90.44	
Interest	288.68	149.91	1,377.37	
Taxes	167.06	108.93		
Insurance	6.30	41.70		
Miscellaneous		8.92		
Repairs				
(Building)	15.66		79.63	
Equipment			222.14	
Total Expenses ..	477.70	309.46	4,008.94	
Net Gain	434.30	50.54	1,651.24	2,136.08
<hr/>				
One-half Interest in Gain Reported				
Schedule C 1, Line 2.....				1,068.04
<hr/>				

Note: Depreciation taken in Depreciation Schedule at one-half, and charged against revenues all properties.

EXHIBIT F—(Continued)

INCOME TAX RETURN CALENDAR YEAR 1943

Helen Field, 1019 S. La Brea, Los Angeles, (35) Calif.

Schedule of Interest Paid

To Whom	Property	Mortgage Int.	Admin. Interest
Marvin E. Brown	1639 North Gower	121.00	
Syndicate Mortgage	739 South Normandie	1,542.66	
Western Service Corp.	1173 S. Highland	418.79	
Prudential Ins. Co.	338 North La Brea	450.57	
Pacific Mutual Life Ins.	1032 South Redondo	613.02	
Belmont Co.	6016 Whitworth	634.99	
Belmont Co.	2203 Beechwood	753.67	
Ralph Sutro	859 S. Wooster	340.76	
Fred W. Heatherly	Lot #144, Tr. 7170	115.50	
Charles Baker	845 West Olympic	764.04	
M. E. & E. E. Ringemann	1830 North Cherokee	3,404.49	
Security 1st Nat'l. Bank	300 South Clark	144.83	
Security 1st Nat'l. Bank	300 South Clark	22.22	
Provident Mutual	6282 Commodore Sloat Dr	250.49	
Provident Mutual	6282 Commodore Sloat Dr	30.43	
Bank of America	341 North Croft	83.84	
Bank of America	338 North La Brea	70.18	

EXHIBIT F—(Continued)

To Whom	Property	Mortgage Int.	Admin. Interest
Bank of America	2646 Vineyard	290.58	
H. F. Whittle Inv. Co.	1144 Hi Pont	160.53	
John Hancock Mutual Life	900 S. Kenmore	533.35	
Gussie Booker	1248 La Jolla	215.58	
Clifford K. Steele	Palisades Lot	2.73	
Mortgage Guarantee	1248 S. La Jolla	141.46	
Mortgage Guarantee	744 N. Ogden	6.88	
Joe Endemiller	739 South Normandie	75.00	
Joe Endemiller	739 South Normandie	43.74	
Mutual Life Ins. Co		77.99	
Martha Sinclair		260.27	
Collector of Internal Revenue		2.41	
	Total Interest Paid	11,121.18	
		=====	
		437.06	
		=====	

TAX COURT OF THE UNITED STATES
WASHINGTON

Docket Nos. 13721 and 13722

EDDY D. FIELD and HELEN FIELD,
Petitioners,
vs.

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

PETITION FOR REVIEW OF DECISION OF
THE TAX COURT OF THE UNITED STATES

To the Honorable Judges of the United States
Circuit Court of Appeals of the Ninth Circuit:

Eddy D. Field and Helen Field, petitioners in
the above-entitled cases which were consolidated
for trial below, hereby petition this court to review
the decision of the Tax Court of the United States
heretofore entered in said proceedings on May 4,
1949. Petitioners respectfully represent:

I.

This petition is filed pursuant to Internal Revenue Code Sections 1141 and 1142, 26 U. S. C. A. Sections 1141 and 1142.

II.

Nature of Controversy

The present controversy relates to the proper determination of petitioners' Federal Income and Victory taxes for the calendar year 1943.

Respondent determined deficiencies to be due from petitioners for the calendar year 1943 as follows:

Eddy D. Field.....	\$7,913.65
Helen Field	8,083.13

The Tax Court of the United States, by its said decisions, sustained respondent in his determinations and petitioners hereby petition for a review of said decisions of the Tax Court of the United States.

III.

Venue

Petitioners are residents of Los Angeles, Los Angeles County, California, and filed their respective separate Federal Income Tax Returns for the calendar year 1943 with the Collector of Internal Revenue for the 6th District of California. Accordingly, petitioners are petitioning for a review of said decisions of the Tax Court of the United States by this Circuit Court of Appeals for the Ninth Circuit.

WHEREFORE, your petitioners pray that this Court review the said decisions of the Tax Court of the United States, reverse said Tax Court decisions, and direct entry of the decisions of said Tax Court in favor of petitioners and each of them determining that no deficiencies in Federal Income

or Victory taxes for the calendar year 1943 are due from the petitioners, or either of them.

DATED: JUNE 24, 1949.

Respectfully submitted,

/s/ GEORGE BOUCHARD,

Attorney for Petitioners.

State of California,
County of Los Angeles—ss.

George Bouchard, being first duly sworn, deposes and says:

That he is the attorney of record for petitioners, and is authorized by them to make this verification for and on their behalf since he is familiar with all of the matters involved; that he has read the foregoing Petition for Review of Decision of the Tax Court of the United States and knows the contents thereof; and that the same is true of his own knowledge, except as to the matters which are therein stated upon his information or belief, and as to those matters that he believes it to be true.

/s/ GEORGE BOUCHARD.

Subscribed and sworn to before me this 24th day of June, 1949.

[Seal] MARY E. McKNIGHT,
Notary Public in and for said County and State.

My Commission Expires August 5, 1952.
Affidavit of service by mail attached.

[Endorsed]: Filed T. C. U. S., July 1, 1949.

[Title of Tax Court and Cause.]

CERTIFICATE

I, Victor S. Mersch, Clerk of The Tax Court of the United States do hereby certify that the foregoing documents, 1 to 19, inclusive, constitute and are all of the original papers and proceedings on file in my office as called for by the "Designation of Contents of Record on Appeal" in the proceedings before The Tax Court of the United States entitled "Eddy D. Field, Petitioner v. Commissioner of Internal Revenue, Respondent" Docket No. 13721 and "Helen Field, Petitioner, v. Commissioner of Internal Revenue, Respondent" Docket No. 13722 and in which the petitioners in the Tax Court proceedings have initiated an appeal as above numbered and entitled, together with a true copy of the docket entries in said Tax Court proceedings, as the same appear in the official docket book in my office.

In testimony whereof, I hereunto set my hand and affix the seal of The Tax Court of the United States, at Washington, in the District of Columbia, this 22nd day of July, 1949.

/s/ VICTOR S. MERSCH,

[Seal]

Clerk,

The Tax Court of the United
States.

[Endorsed]: No. 12308. United States Circuit Court of Appeals for the Ninth Circuit. Eddy D. Field and Helen Field, Petitioners, vs. Commissioner of Internal Revenue, Respondent. Transcript of the Record. Upon Petition to Review a Decision of The Tax Court of the United States.

Filed July 29, 1949.

/s/ PAUL P. O'BRIEN,
Clerk of the United States Circuit Court of Appeals
for the Ninth Circuit.

In the United States Circuit Court of Appeals
for the Ninth Circuit

Case No. 12308

EDDY D. FIELD and HELEN FIELD,
vs.

COMMISSIONER OF INTERNAL REVENUE.

**STATEMENT OF POINTS AND
DESIGNATION OF CONTENTS OF RECORD
ON APPEAL**

Statement of Points

Petitioners in the above-entitled consolidated proceedings intend to rely upon the following points on appeal:

(1) The Tax Court erred in holding that the two parcels of real property sold in 1942, and the eight parcels of real property sold in 1943, which they had held for more than six months for invest-

ment and rental income, were sales of property held by them primarily for sale to customers in the ordinary course of trade or business of buying and selling rental properties.

(2) The Tax Court erred in refusing to hold that petitioners held the two parcels of real estate sold in 1942, and the eight parcels of real estate sold in 1943, for investment and rental income and were, therefore, entitled to the benefits of Section 117(a) and/or 117(j) of the Internal Revenue Code.

(3) The Tax Court erred in holding that profit on the sale of the two real properties sold in 1942, and the eight parcels of real property sold in 1943, which had been held by them for more than six months, were taxable as ordinary income and not at capital gain rates.

(4) The Tax Court erred in approving deficiencies in income and Victory taxes against petitioners as determined by the respondent.

Designation of Contents of Record on Appeal

Petitioners in the above-entitled consolidated proceedings hereby designate the following portion of the records, proceedings and evidence before The Tax Court of the United States as material to the consideration of this appeal:

- (1) Docket entries;
- (2) Petition of petitioner, Eddy D. Field, Docket No. 13721;
- (3) Petition of petitioner, Helen Field, Docket No. 13722;

- (4) Answer to Petition, Docket No. 13721;
- (5) Answer to Petition, Docket No. 13722;
- (6) Findings of Fact and Opinion of the Tax Court;
- (7) Decisions of the Tax Court;
- (8) Reporter's Transcript of proceedings before the Tax Court;
- (9) The following Exhibits introduced in evidence by respondent, "A," "B," "C," "D," "E" and "F"; and
- (10) Petition for Review of the Decisions of the Tax Court.

Also Clerk's Certificate.

Dated: August 1, 1949.

Respectfully submitted,

/s/ GEORGE BOUCHARD,
Attorney for Petitioners.

Affidavit of Service by Mail.

[Title of Court of Appeals and Cause.]

DESIGNATION OF CONTENTS OF
RECORD ON APPEAL

To Victor S. Mersch, Tax Court of the United States, Washington, D. C.

Petitioners in the above-entitled consolidated pro-

ceedings hereby designate the following portion of the record, proceedings and evidence before the Tax Court of the United States to be contained in the record on review by the Circuit Court of Appeals for the Ninth Circuit:

- (1) Docket Entries;
- (2) Petitiion of Petitioner Eddy D. Field, (Docket No. 13721);
- (3) Petition of Petitioner Helen Field, (Docket No. 13722);
- (4) Answer to Petition in Docket No. 13721;
- (5) Answer to Petition in Docket No. 13722;
- (6) Findings of Fact and Opinion of the Tax Court;
- (7) Decisions of the Tax Court;
- (8) Reporter's Transcript of the proceedings before the Tax Court;
- (9) The following Exhibits introduced in evidence by Respondent: Respondent's Exhibits "A," "B," "C," "D," "E" and "F."
- (10) The Petition for Review of the Decisions of the Tax Court and Notice of Filing Petition for Review, together with Proof of Service of said Petition and said Notice of Filing Petition;
- (11) This Designation of Contents of Record on Appeal and the Notice of Filing thereof, together with proof of service of said Designation and Notice.

Dated: June 24th, 1949.

Respectfully submitted,
/s/ GEORGE BOUCHARD,

Attorney for Petitioners.

Affidavit of service by mail.

Received and filed T.C.U.S. July 1, 1949.

